

April 14, 2004

Ms. Jean A. Webb
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**RE: Revision to Chapters 3 and 4
Submission No. 04-31**

Dear Ms. Webb,

Chicago Mercantile Exchange Inc. ("CME" or "Exchange") hereby notifies the Commission that the Exchange has approved revisions to Chapters 3 and 4 of the Rulebook.

An overview of the most significant changes to Chapters 3 and 4 is set forth below. The text of the amendments are attached, with additions underscored and deletions overstruck.

- **Chapter 3 ("Committees")** – The description of various Exchange committees has been eliminated given that Article III of the bylaws identifies the Board level committees. The quorum provision has also been clarified to state that a chairman is counted for quorum purposes.
- **Rule 400 ("General Provision")** – In order to more completely identify those individuals and entities subject to Exchange rules, the definition of "Member" has been revised and clarified. Specifically it has been made clear that Members, Clearing Members, and their employees and agents are all treated as Members and hence are deemed to know, consent to, and be bound by all Exchange rules. Additionally, the rule clarifies that Members are subject to the continuing jurisdiction of the Exchange with respect to conduct that occurred while the individual or entity was a Member, regardless of whether such individual or entity has ceased being a Member.
- **Rule 402 ("Business Conduct Committee") and Rule 406 ("Probable Cause Committee")** – In order to make the disciplinary hearing and settlement process more efficient, the Business Conduct Committee ("BCC") panel size has been reduced from seven to five. Additionally, to further ensure independence and freedom from conflicts of interest, the non-member participation in both BCC panels and Probable Cause Committee ("PCC") panels has been increased. With respect to BCC panels, the panel will be comprised of three Members and two non-members (changed from the prior five members and two non-members), and in the case of PCC panels, the panel will be comprised of four Members and three non-members (changed from the prior five members and two non-members).
- **Rule 402.B. ("Hearings")** – Pursuant to revised Rule 410 ("Hearings Before a Hearing Panel of the Board of Directors"), all hearings conducted at the Board level will be heard by a panel of the Board and not the Board as a whole.

- **Rule 408.B. ("Conduct of Hearings – Pre-Hearing Matters")** – The rule now clarifies that the issuance of charges does not preclude Market Regulation from continuing to investigate the activity underlying the charges or other potential violations by the respondent. Additionally, the rule clarifies that the Chairman of the hearing panel has authority to rule on all procedural and evidentiary matters, except motions seeking to dismiss any or all of the charges, which will be heard by the panel.
- **Rule 408.C. ("Settlement Offers")** – The new settlement section specifically sets forth the process for the handling of both supported and contested settlement offers. The BCC will review supported settlement offers based on the written filings of the parties. Procedurally, the parties will be available to answer any questions on an as-needed basis by the BCC.
- **Rule 408.D. ("Hearings")** – The revised provision provides for a panel to request additional information from the parties regarding sanctions (i.e., oral arguments and postings), but only after the panel has determined that a party is guilty of an offense.
- **Rule 411 ("Appeal to a Hearing Panel of the Board of Directors")** – The rule has been changed to include *requests* for an appeal by the Managing Director of Regulatory Affairs ("MDRA") or by a Respondent from decisions rendered by the BCC in instances where the MDRA or the Respondent believes the decision by the BCC was arbitrary, capricious, an abuse of the BCC's discretion or in excess of its authority or jurisdiction.
- **Rule 413 ("Summary Access Denial Actions")** – The rule has been redrafted to clarify the circumstances under which the MDRA may summarily deny a Member access to the Exchange or its markets as well as the hearing process with respect to such denials of access.
- **Rule 416 ("Conflicts of Interest") and Rule 417 ("Prohibited Communications")** – The conflicts of interest rule has been streamlined. Rule 417 is new and seeks to codify the inappropriateness of *ex parte* communications between a party and the panel and/or panel chairman. Under the proposed rule, it is a major offense for a subject, respondent, or committee panelist to knowingly make or cause to be made an *ex parte* communication relevant to the merits of a matter. It also places an affirmative obligation on a panel member or a party that becomes aware of an *ex parte* communication to make any such communication known to all parties.
- **Rule 442 ("Notification of Significant Events")** – Rule 442 is new and seeks to require a Member to immediately notify the Exchange if the Member is indicted, sanctioned or penalized outside of the Exchange in one of several specific manners (e.g., any felony indictment or conviction, a misdemeanor conviction involving fraud, suspensions, fines, or expulsions by the CFTC, SEC, and NFA).

The Exchange certifies that these revisions neither violate nor are inconsistent with any provision of the Commodity Exchange Act or of the rules and regulations thereunder.

If you have any questions regarding this matter, please call me at (312) 648-5422.

Sincerely,

/S/ Stephen M. Szarmack
Director and Associate General Counsel

CHAPTER 3 EXCHANGE COMMITTEES

300. COMMITTEES

300.A. General Provisions

The Board shall establish from time to time Board level committees as defined in the bylaws and functional committees necessary to conduct the business of the Exchange.

The duties of the committees are to establish plans for the strategic direction of the Exchange, develop regulatory policy, conduct investigations and hearings, advise and assist the Board and perform the specific duties assigned to them elsewhere in these ~~Rules~~. The Board may refer to a committee any matter within the committee's jurisdiction, and it shall be the duty of the committee to meet, consider the matter and make a complete report to the Board.

~~Except as provided below, t~~The Chairman ~~shall~~may appoint ~~m~~Members and ~~may~~ appoint non-members to all non-Board level committees with the approval of the Board, to serve during the Chairman's term of office and until new committees are appointed and approved. The ~~Board~~Chairman may at any time remove any member of a committee, with or without cause, and all vacancies shall be filled as in the case of an original appointment.

Every committee of the Exchange must have a chairman or co-chairmen. For purposes of these Rules, each co-chairman shall have the powers and duties of a chairman if acting in the capacity of a chairman. ~~The chairman or co-chairmen of each committee~~ may either be a members of the Board, if required by the Rules, a ~~m~~Members of the Exchange, or a non-members. The Chairman of the Board may appoint ~~a co-chairman, vice-chairman or an alternate chairman~~ to each committee. All meetings shall be called upon request of the chairman of the committee. In the absence of the chairman or a co-chairman, the function of that office shall be performed by ~~the co-chairman, a vice-chairman, or an alternate chairman~~ and may be performed by the Chairman of the Board.

Unless otherwise provided in the Rules, A quorum shall consist of a majority of the voting members of a committee or a committee panel. The chairman of a Ccommittee, or another individual acting in the capacity of the chairmean, and others acting in the capacity of chairman, may vote only to make or break a tie vote unless otherwise provided in the Rules. The chairman shall be counted for quorum purposes and to calculate a majority.

~~The minutes of each meeting shall be recorded.~~ Meetings shall be conducted according to established procedures of the Exchange. In the absence of established procedures, or in case of dispute, Robert's Rules of Order may be

consulted as a guide. Voting by proxy at committee meetings shall not be permitted.

No more than one member of a single broker association may serve on an adjudicatory committee.

300.B. _____ Disqualification from Certain Committees- and Governing Boards

A ~~m~~Member is ineligible to serve on the Board of Directors or any Board level committee; the Clearing House Risk Committee; the Business Conduct Committee; the Probable Cause Committee; any Pit Committee; the Pit Supervision Committee and the Arbitration Committee ~~following committees if;~~

(1) within the prior three years (or within the prior five years in the case of major Exchange rule violations), such ~~m~~Member: ~~(1a)~~ was found by a final decision of a self-regulatory organization, administrative law judge, court of competent jurisdiction or the CFTC, to have committed a disciplinary offense (as defined below); ~~(2b)~~ entered into a settlement agreement where the findings or, if none, the acts charged included a disciplinary offense; ~~or (3c)~~ has had his CFTC registration revoked or suspended or has been convicted of a felony listed in §8a(2)(D)(ii)-(iv) of the Commodity Exchange Act; or,

(2) such ~~Memberperson~~ currently is subject to: ~~(4a) an agreement has agreed with the CFTC, SEC or any self-regulatory organization not to apply for registration or membership; (5b) is subject to a trading ban, suspension or expulsion is suspended or expelled from any self-regulatory organization; (c) is serving any sentence of probation or owes any portion of a fine imposed pursuant to (1)(a) or (2b) above; (6d) is subject to a denial, suspension or disqualification from service at any securities industry self-regulatory organization; or (7e) is subject to a CFTC or SEC registration revocation or suspension;~~

a. ~~_____ Arbitration Committee;~~

b. ~~_____ Audit Committee;~~

c. ~~_____ Board of Directors;~~

d. ~~_____ Business Conduct Committee;~~

e. ~~_____ Clearing House Risk Committee;~~

f. ~~_____ Executive Committee;~~

g. ~~_____ Market Regulation Oversight Committee;~~

- h. ~~Membership Committee;~~
- i. ~~Pit Committees; and~~
- j. ~~Probable Cause Committee.~~

300.C. Disciplinary Offenses Defined

"Disciplinary offense" is defined as a:

- (1) Violation of an Exchange ~~With respect to violations committed at the Exchange, violations of all rules~~ designated by the Exchange as requiring disqualification from service on the above committees, which list of rules shall be posted in a public place;
- (2) Violation of any other Exchange rule unless such violation: ~~and violations of all other rules except those which~~ (a) do ~~did~~ not involve fraud, deceit or conversion, (b) do ~~did~~ not result in suspension or expulsion, and ~~or~~ (c) the committee of jurisdiction specifically makes a finding that the finding such violations determines to involve is based solely on: (i) decorum or attire, (ii) financial requirements, or (iii) reporting or recordkeeping requirements which receive cumulative fines of \$5,000 or less within any calendar year;
- (23) ~~With respect to v~~ Violations of the rules of a ~~at other self-regulatory organizations, violations of any such organization's rules, except those which (a) do not involve: (a) fraud, deceit or conversion, or (b) do not result in suspension or expulsion, and (c) involve (i) decorum or attire, (ii) financial requirements, or (iii) reporting or recordkeeping requirements which receive cumulative fines of \$5,000 or less within any calendar year;~~
- (34) Violations of the Commodity Exchange Act or CFTC regulations; or
- (45) Failure to exercise supervisory responsibility ~~with respect to acts described in (1) through (3) above if such failure is itself a~~ violation of the ~~rules of the Exchange, the rules of other self-regulatory organizations, the Commodity Exchange Act or CFTC regulations with respect to activities that involved fraud, deceit or conversion.~~

~~Each~~ A ~~m~~Member who serves on any of the committees listed in Rule 300.B. ~~referenced in Section B. above shall inform the Exchange if he or she is currently ineligible, and shall immediately inform the Exchange if he or she later becomes ineligible, to serve on such committees under the standards set forth above with respect to disciplinary offenses, other than violations of Exchange rules.~~ Violation of this rule may be a major offense.

ARBITRATION COMMITTEE

~~The Arbitration Committee shall implement the Exchange's arbitration rules and decide matters of controversy between members, and between non-member employees or non-member customers and members, whenever arbitration has been arranged in accordance with the rules of Chapter 6.~~

~~The Chairman of the Board shall appoint members and non-members to the committee. Non-members shall serve on the committee for a term of at least two years.~~

AUDIT COMMITTEE

~~The Audit Committee shall review the results and scope of the audit and all other services provided by the Exchange's independent auditors, as well as the Exchange's accounting and internal control procedures and policies. The committee shall meet as often as necessary, but not less than four times per year.~~

~~The Chairman of the Board shall appoint members and may appoint non-members to the committee.~~

BUSINESS CONDUCT COMMITTEE

~~The Business Conduct Committee shall have jurisdiction over the conduct of, and enforce the rules relating to trading practices, sales practices, trading floor conduct and trading ethics of the members, and others as defined in Rule 400 and it shall conduct hearings and investigations on those matters over which it is assigned jurisdiction by Chapter 4.~~

~~The Chairman of the Board shall appoint members and non-members to the committee. Non-members shall serve on the committee for a term of at least two years.~~

CLEARING HOUSE RISK COMMITTEE

~~The Clearing House Risk Committee shall provide oversight on major risk management policy issues and financial safeguards, oversee financial surveillance activities of the Audit Department, adopt regulations regarding qualification for admission to membership in the Clearing House as set forth in Chapter 9, and conduct investigations and hearings on those matters over which it is assigned jurisdiction by Chapter 4.~~

~~The Chairman of the Board shall appoint members and non-members to the committee. Non-members shall serve on the committee for a term of at least two years.~~

COMPENSATION COMMITTEE

~~The Compensation Committee shall oversee the compensation and benefits of the employees and management of the Exchange, review and recommend Board compensation levels, set annual merit increase and bonus pool amounts and provide oversight and recommendations regarding stock option plans. The committee shall meet as often as necessary, but not less than four times per year.~~

~~The Chairman of the Board shall appoint members and may appoint non-members to the committee.~~

EXECUTIVE COMMITTEE

~~The Executive Committee shall have the authority to act in place of the Board when the Board is not in session. The committee shall have oversight responsibility regarding GFX and other functional committees and shall review and discuss general policy and operational issues that are non-strategic and non-technology-related.~~

~~The Chairman of the Board shall appoint members and may appoint non-members to the committee.~~

MARKET REGULATION OVERSIGHT COMMITTEE

~~The Market Regulation Oversight Committee shall advise the Board with regard to non-financial regulatory policy matters.~~

~~The Chairman of the Board shall appoint members and may appoint non-members to the committee.~~

MEMBERSHIP COMMITTEE

~~The Membership Committee shall establish criteria for individuals seeking membership on the Exchange. The Membership Committee shall have oversight responsibility for the membership process and shall review all applications of prospective members not meeting Exchange staff administered membership criteria.~~

NOMINATING COMMITTEE – BOARD

~~The Nominating Committee – Board shall review the qualifications of potential candidates for the Board and shall propose nominees for the positions on the Board that are nominated by the Board.~~

NOMINATING COMMITTEE – CLASS B SERIES

~~The Nominating Committees—Class B Series shall review the qualifications of potential candidates for the Board and shall propose nominees for the positions on the Board that are nominated by Class B Series Shareholders.~~

PIT COMMITTEE

~~The Pit Committee, whose members shall not be directors, shall supervise activities within an assigned pit. The Chairman of the Board shall appoint to the Committee, for each pit, one or more vice chairmen and other Pit Committee members, which may include staff, who shall supervise pit transactions, pit etiquette, pit space issues, price quotations, adherence to Exchange Rules and conduct investigations and hearings in accordance with the applicable rules in Chapter 4.~~

PIT SUPERVISION COMMITTEE

~~The Pit Supervision Committee shall be comprised of the following members: a Pit Supervision Chairman who shall be a director, CME, IMM, IOM and GEM Division directors who shall be vice chairmen, and the futures and options Pit Supervision Committee members from each division. The Committee shall implement the policy of the Board with respect to the Pit Committee, resolve pit space issues, enforce rules relating to trading infractions and decorum offenses, advise the Board on the performance and needs of the Pit Committee and conduct hearings in accordance with Rule 415.C.~~

PROBABLE CAUSE COMMITTEE

~~The Probable Cause Committee shall receive and review investigation reports from the Division of Market Regulation staff and determine whether there is a reasonable basis to charge a rule violation.~~

~~The Chairman of the Board shall appoint members and non-members to the committee. Non-members shall serve on the committee for a term of at least two years.~~

STRATEGIC PLANNING COMMITTEE

~~The Strategic Planning Committee shall be predominantly comprised of members of the Board and shall study, develop, advise and make recommendations to the Board with respect to long range plans of the Exchange.~~

~~The Chairman of the Board shall appoint members and may appoint non-members to the committee.~~

TRADING FLOOR OPERATIONS COMMITTEE

The Trading Floor Operations Committee shall have oversight responsibility regarding trading floor issues.

The Chairman of the Board shall appoint members to the committee.

(Next Rule 350)

~~301. — 349. — [RESERVED]~~

~~350. — ABSENCE FROM COMMITTEE MEETINGS~~

~~If any member of a committee shall be absent from two consecutive meetings without valid excuse, the Board may remove such member, and the vacancy shall be filled as in the case of an original appointment.~~

~~351. — FEES OF DIRECTORS AND COMMITTEE MEMBERS~~

~~Fees shall be paid only to those directors and committee members whose attendance is recorded by the secretary. The fees payable to directors and committee members shall be determined from time to time by Exchange staff.~~

(End Chapter 3)

CHAPTER 4 ENFORCEMENT OF RULES

400. GENERAL PROVISIONS

The Board has adopted rules, and from time to time adopts amendments and supplements to such rules, to ~~assure~~promote a free and open market on the Exchange, to maintain ~~proper and dignified trading~~ appropriate business conduct and to provide protection to the public in its ~~contacts~~ dealings with the Exchange and its ~~m~~Members. The Board has created committees to which it has delegated responsibility for the investigation, hearing and imposition of penalties for violations of Exchange rules. The Board has also delegated responsibility for the investigation and imposition of penalties for violations of Exchange rules to Exchange staff as set forth in the rules. The delegation of such responsibility and authority shall in no way limit the authority of the Board with respect to all rule violations.

~~-(For purposes of Chapter 4, the term "mMember" shall mean: 1) be defined to include individual members and clearing members of the Exchange, including retired members with floor access privileges and individuals and entities described in Rule 106; 2) associated persons ("APs") and affiliates of clearing members of the Exchange (including, but not limited to, related parties of Rule 106.I. firms in regard to their Exchange related business); 3) employees, authorized representatives, guaranteed introducing brokers, contractors or agents of Exchange members and clearing members, GLOBEX terminal operators, Exchange permit holders individuals and any person or entity that has firms that have been granted cross-exchange trading privileges; and 4) and employees, authorized representatives, contractors, or and agents of any of the above persons or entities, in regard to the Exchange related activities of such employees and agents such individuals and firms, unless the context indicates otherwise.)~~

Members are deemed to know, consent to and be bound by all Exchange rules. Former ~~m~~Members shall ~~be subject to the continuing jurisdiction of the Exchange, including, without limitation, the application of Rule 432.L., with respect to any conduct that occurred while a mMember. To that end, the Board has appointed officers and created committees to which it has delegated responsibility for the investigation, hearing and imposition of penalties for violations of the rules of the Exchange. In addition, the Board has delegated responsibility for the investigation and imposition of penalties for violations of the rules of the Exchange to Exchange staff as set forth in the rules and interpretations herein. The delegation of such responsibility and authority shall in no way limit the authority of the Board to deal ultimately with all rule violations, either on its own initiative or upon appeal, and nothing in this chapter shall release the Managing Director of Regulatory Affairs of his duties and responsibilities to secure enforcement of the rules of the Exchange.~~

DELEGATION AND JURISDICTION OF ENFORCEMENT AUTHORITY

401. THE MANAGING DIRECTOR OF REGULATORY AFFAIRS

It shall be the duty of the Managing Director of Regulatory Affairs to enforce the Exchange rules of the Exchange, and to this end, he shall have available to him at all times the facilities/resources of the Division of Market Regulation Department and such other Exchange resources as may be necessary to conduct investigations of alleged rule violations and market conditions; The Managing Director of Regulatory Affairs shall have the authority to inspect the books and records of all mMembers; he may and the authority to require any mMember to appear before him and produce his or its books and records and answer questions regarding alleged violations of the Exchange rules of the Exchange. The Managing Director of Regulatory Affairs may also delegate such authority to staff of the Market Regulation Department.

402. BUSINESS CONDUCT COMMITTEE

402.A. Jurisdiction and General Provisions

The Business Conduct Committee ("BCC") shall have: 1) jurisdiction over Members with respect to matters relating to the conduct, of, and enforce the rules relating to trading practices, sales practices and trading ethics; ~~of 2) the authority, pursuant to Rule 402.C., to take emergency actions; 3) the authority, pursuant to Rule 402.D., to take actions against non-members; 4) the authority, pursuant to Rule 413.B., to conduct hearings on denials of access pursuant to Rule 413.A., and 5) the authority to, enforce the rules relating to the conduct of clearing members or employees of a clearing member or members and others as defined in Rule 400, and conduct investigations, and original and appellate hearings on all those matters over which it is assigned~~has jurisdiction under this Chapter.

The BCCA Business Conduct Committee panel shall act through a consistPanel composed of five members, a chairman, three Members and two voting non-members. A quorum of a Panel shall consist of a majority of the panel, but must include at least one Member and two non-members.

EachAny pPanel conducting that conducts a hearing or proceeding shall include-consist of panelists who possess sufficiently differentdiverse membership-interests so as to ensure fairness in accordance with CFTC Regulation 1.64, and to prevent special treatment or preference for any person in the conduct of the division's responsibilities. Such membership interests include: 1) floor brokers; 2) floor traders; 3) futures commission merchants; 4) producers, consumers, processors, distributors, and merchandisers of commodities traded on the Exchange; 5) participants in a variety of pits or principal groups of commodities traded on the particular contract market; and 6) other market users or participants. In addition, each panel shall satisfy one or both of the following: a) there is no single membership interest described above with which 50% or more of the individuals on the panel are primarily associated; or b) there is no single pit in which 50% or more of the individuals on the panel conduct their primary trading activity.

No person shall serve on the ~~BCC Business Conduct Committee~~ unless and until he has agreed in writing that ~~pledged to the Exchange that during the period of such service he~~ will not publish, divulge, or make known in any manner, any facts or information regarding the business of any person or any other information which may come to his attention in his official capacity as a member of the ~~BCC Business Conduct Committee~~, except when reporting to the Board or to a committee concerned with such information or to the Legal Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled ~~called upon~~ to testify in any judicial or administrative proceeding. Violation of the ~~pledge~~ this agreement shall be a major offense.

All information and documents provided to the BCC and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

402.B. Hearings

Hearings by the BCC shall be before a Panel, and shall be conducted by a chairman of the BCC in accordance with the provisions of Rule 408.

If a Member is found guilty, by a majority vote, the Panel may do one or more of the following:

1. Order the Member to cease and desist from the conduct found to be in violation of the rules;
2. Order the Clearing Member to liquidate such portion of the open contracts in the Clearing Member's proprietary or customers' accounts, or both, as the Panel deems appropriate to ensure the integrity of the Exchange contracts or to ensure an orderly and liquid market;
3. Order the Clearing Member or its customer to deposit such additional performance bonds with the Exchange as the Panel deems appropriate to protect the integrity of open contracts;
4. Restrict the privilege of being affiliated with, or having an interest in, a broker association or guaranteed introducing broker and/or suspend the trading floor access and/or the right to associate with a Member;
5. Suspend the Member's ability to enter orders for any account into the GLOBEX platform or to supervise the entry of orders into the GLOBEX platform by others;
6. Impose a period of probation upon the Member;
7. Suspend any or all of the privileges of membership;

8. Expel the Member;
9. Restrict the Member's access to any or all Exchange-traded products;
10. Impose a fine upon the Member not to exceed \$1,000,000 per violation plus the amount of any benefit received as a result of the violation;
11. Prescribe limitations on positions of the Member as may be appropriate;
12. Impose advertising restrictions upon the Member pursuant to these rules; and/or
13. Direct the Member to make restitution, in such amount as is warranted by the evidence, to the account of the customer damaged by the conduct, or to the Clearing Member who has previously made restitution to the account of the customer.

The Panel may also find that the evidence warrants an adjustment to the account of a customer where a Member, though not in violation of an Exchange rule, has not fulfilled his or its responsibility for proper execution of a customer order.

If the Panel shall decide by a majority vote that the matter might warrant a penalty in excess of its own authority, the chairman of the Panel shall refer the matter to the Board for further hearings and decision.

402.C. Emergency Actions

1. The BCC is authorized to determine whether an emergency exists and whether emergency action is warranted. The following events and/or conditions may constitute emergencies:
 - a. Any actual, attempted, or threatened market manipulation;
 - b. Any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of positions;
 - c. Any action taken by the United States or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;
 - d. The actual or threatened bankruptcy or insolvency of any Member or the imposition of any injunction or other restraint by any government agency, self regulatory organization, court or arbitrator upon a Member which may affect the ability of that Member to perform on its contracts;

- e. Any circumstance in which it appears that a Member or any other person or entity has failed to perform contracts or is in such financial or operational condition or is conducting business in such a manner that such person or entity cannot be permitted to continue in business without jeopardizing the safety of customer funds, Members, or the Exchange; and/or
 - f. Any other unforeseeable or adverse circumstance with respect to which it is not practicable for the Exchange to submit, in a timely fashion, a rule to the CFTC for prior review under the Commodity Exchange Act.
2. In the event that the BCC determines, in the good faith exercise of its sole discretion, that an emergency exists, it may take any of the following emergency actions or any other action that may be appropriate to respond to the emergency:
- a. Terminate trading;
 - b. Limit trading to liquidation of contracts only;
 - c. Impose or modify position limits and/or order liquidation of all or a portion of a Member's proprietary and/or customers' accounts;
 - d. Order liquidation of positions as to which the holder is unable or unwilling to make or take delivery;
 - e. Confine trading to a specific price range;
 - f. Modify price limits;
 - g. Modify the trading days or hours;
 - h. Modify conditions of delivery;
 - i. Establish the settlement price at which contracts are to be liquidated; and/or
 - j. Require additional performance bond to be deposited with the Clearing House.

All actions taken pursuant to this subsection shall be by a majority vote of the Panel members present. A Member directly affected by the action taken shall be notified in writing of such action. As soon as practicable, the Board and the CFTC shall be notified of the emergency action in accordance with CFTC regulations. Any action taken pursuant to this subsection may not extend beyond the duration of the emergency, and shall not continue beyond 30 days following the imposition of the action without express CFTC authorization. In no event shall action taken pursuant to this Rule remain in effect

for more than 90 days following its imposition. Nothing in this section shall in any way limit the authority of the Board, other committees, or other appropriate officials to act in an emergency situation as defined by these rules.

The Business Conduct Committee shall have emergency power pursuant to Rule 411.B. and shall have the jurisdiction to enforce the rules pertaining to the following:

- a. ~~attempts to manipulate and manipulations of prices and attempts to corner and corners of any commodity on the Exchange;~~
- b. ~~conduct of members detrimental to the good name of the Exchange; and~~
- c. ~~business conduct of and compliance with Exchange rules and regulations by members, including conduct affecting non-members and the public, except insofar as jurisdiction over conduct is assigned to other committees.~~

~~The Business Conduct Committee may conduct hearings or investigations on rule violations falling in the above categories either on its own initiative, by reference from Exchange staff, the Division of Market Regulation, the Probable Cause Committee or any other committee or division of the Exchange.~~

402.D. Actions against Non-Members

If the BCC has reason to believe or suspect that any non-member is conducting trading activities in violation of the Commodity Exchange Act or Exchange rules or in a manner that threatens the integrity or liquidity of any contract, the committee may request such non-member and require any Members to appear, produce documents and testify at a Market Regulation Department interview or investigation, or hearing to be conducted by the BCC.

If, after hearing, the BCC determines that the actions of such non-member threaten the integrity or liquidity of any contract or threaten to violate or violate the Commodity Exchange Act or Exchange rules, the BCC may:

- 1. Order any Clearing Member to liquidate all or any portion of such non-member's position;
- 2. Order that no Clearing Member accept new positions on behalf of any such non-member;
- 3. Deny or terminate access to the GLOBEX platform of such non-member; and/or
- 4. Order such action as is necessary to prevent a threat to the contract or violation of the Commodity Exchange Act or Exchange rules.

403. CLEARING HOUSE RISK COMMITTEE

403.A. Jurisdiction and General Provisions

The Clearing House Risk Committee (or any subcommittee thereof) (collectively, "CHRC"), ~~shall have sole discretion in determining whether an applicant satisfies the qualifications of an applicant for status as a eClearing Mmember.~~ The CHRC decision shall be subject to appeal to the Board by an applicant. ~~It~~The CHRC may adopt regulations regarding qualifications for admission to membership in the Clearing House, which regulations, when approved by the Board, shall have the same ~~force and~~ effect as rules of the Exchange. ~~In the first instance, it~~The CHRC shall act upon applications ~~offor~~ clearing membership and applications for assignment of ~~membership and~~ Class A Shares, trading rights and related ~~and~~ Class B Shares for clearing purposes. Applications for clearing membership and for assignment of membership and Class A Shares, trading rights and related ~~and~~ Class B Shares for clearing purposes, when approved by the ~~CHRC~~Clearing House Committee, shall be effective and thereafter ratified ~~be submitted to by~~ the Board ~~for final action.~~

~~The CHRC~~Clearing House Risk Committee shall consist of ~~five members, a~~ have at least two co-chairmen, who shall be members of the Board, and at least three ~~seven additional individuals, five who~~ voting non-members. ~~In addition, five of the individuals on the committee, either member(s) or non-member(s), shall be eClearing mMember representatives.~~

~~The CHRC~~Clearing House Risk Committee may conduct investigations, issue charges and conduct hearings on its own initiative or by referral from Exchange staff, the Clearing Division, the Division of Market Regulation or the PCC ~~probable Cause Committee, or the BCC on those matters over which it is assigned jurisdiction under this chapter.~~

~~The CHRC~~Clearing House Risk Committee may impose positions limits on Cclearing Mmembers based on their regulatory capital assets and such other criteria as it may deem appropriate. ~~It shall also have emergency power pursuant to Rule 412.B.~~

No person shall serve on the ~~CHRC~~Clearing House Risk Committee unless ~~and until~~ he has agreed in writing that pledged to the Exchange that during the period of such service he will not publish, divulge, or make known in any manner, any facts or information regarding the business of any person or entity or any other information which may come to his attention in his official capacity as a member of the ~~CHRC~~Clearing House Risk Committee, except when reporting to the Board or to a committee concerned with such information, or to the Legal Department, Audit Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled ~~dealt upon~~ to testify in any judicial or administrative proceeding. Violation of this agreement ~~the pledge~~ shall be a major offense.

All information and documents provided to the CHRC and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

The ~~CHRC~~Clearing House Risk Committee shall have jurisdiction to enforce the rules pertaining to the following:

- a1. ~~f~~Financial integrity of ~~C~~clearing ~~M~~members; and
- b2. ~~b~~Business conduct of and compliance with Exchange rules and regulations by ~~C~~clearing ~~M~~members and by any ~~Exchange~~ ~~M~~member who is an officer or a principal or who has assigned his membership on behalf of a ~~C~~clearing ~~M~~member, in connection with such ~~C~~clearing ~~M~~member's activities, except insofar as jurisdiction over matters relating to conduct, trading practices, sales practices and trading ethics of Members, and market manipulations and corners is within the purview of assigned to the ~~BCC~~Business Conduct Committee.

403.B. Settlement Offers

A respondent that is the subject of an investigation or charges may submit for consideration by the CHRC a written offer of settlement in disposition of such investigation or charges. A respondent may submit a settlement offer without admitting or denying the rule violations upon which the penalty is based; provided, however, that an offer must include a consent to entry of findings by the CHRC regarding the conduct and rule violations at issue and to the penalty to be imposed.

If the Audit Department does not oppose the respondent's offer of settlement, the respondent's written offer of settlement and the Audit Department's supporting statement shall be submitted to the CHRC for consideration.

If the Audit Department opposes an offer of settlement, the Respondent's written offer and the Audit Department's written opposition shall be submitted to the CHRC. The CHRC's consideration of the offer of settlement shall be based upon the written offer and opposition filings, as well as the evidence presented to the CHRC in determining to issue the charges.

The respondent may withdraw his offer at any time prior to final acceptance of the offer by the CHRC. If the CHRC accepts the offer, a written decision setting forth the CHRC's findings and sanction shall be issued, and written notice of the decision shall be given to the respondent.

If the CHRC rejects the offer, the respondent will be notified of the rejection and the offer will be deemed withdrawn. If an offer is withdrawn or rejected by the CHRC, the respondent shall not be deemed to have made any admissions by reason of the offer and shall not otherwise be prejudiced by having submitted the offer. The CHRC chairman may decline to convene the CHRC to consider a settlement offer.

In submitting a settlement offer, the respondent waives his right to a hearing and to appeal the CHRC's decision if the offer is accepted; the respondent also waives any claim of bias or prejudgment on the part of the CHRC. If a respondent submits an offer within

14 days of a scheduled hearing on the charges, or after the hearing has begun, the offer shall not stay the hearing unless otherwise determined by the Chairman of the CHRC.

403.C. Hearings

Hearings before the CHRC shall be fair. No member of the CHRC may serve if he has a personal, financial or other direct interest in the matter under investigation. The Audit Department shall be a party to the hearing and shall present evidence on the charges. The Audit Department and the members of the CHRC may question any witness and examine all the evidence. The respondent shall be entitled to appear personally at the hearing and to be represented by legal counsel or a Member of the Exchange, other than a member of the investigation or hearing committee, a member of the PCC, a member of the Board or an employee of the Exchange. The respondent may also testify, produce evidence, call witnesses on his own behalf and cross-examine any witness. The Audit Department bears the burden of establishing the basis for a finding of guilt on any charge by a preponderance of the evidence. Formal rules of evidence shall not apply.

All testimony and documents produced in connection with a disciplinary hearing shall be deemed non-public and confidential and shall not be disclosed except in connection with proceedings resulting from that hearing or as required by law. An audiotape or other substantially verbatim record of the hearing shall be made and become part of the record of the proceeding. If a respondent requests a transcript, he shall be solely responsible for the cost of producing the transcript. A majority vote of the CHRC is required for a finding of guilt. A respondent that is found not guilty shall not again be charged with or tried for the same underlying conduct. In the event of a finding of guilt, the CHRC may request additional information or argument from the parties as to the appropriate nature and amount of a sanction prior to determining such sanction. In the absence of exceptional circumstances, as determined by the CHRC chairman, such argument shall proceed immediately upon the conclusion of the evidence and determination of the committee.

The CHRC shall decide by a majority vote whether the Member is guilty of the alleged violation. If the Member is found guilty or is found to be in a financial condition which jeopardizes or may jeopardize the integrity of the Exchange, the panel may, by a majority vote:

1. Order the Member to cease and desist from the conduct found to be in violation of the rules or contrary to the best interests of the Exchange;
2. Order the Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
3. Prescribe such additional capital requirements as it deems appropriate;
4. Prescribe such position limitations as it deems appropriate;

5. Impose a fine against the Member, not to exceed \$1,000,000 per violation plus the monetary value of any benefit received as a result of the violation; and/or
6. Suspend a Clearing Member if it finds that the financial condition of such Clearing Member jeopardizes or may jeopardize the integrity of the Exchange, subject to approval of any two of the following: the President, the Managing Director and President of the Clearing House, the Chairman of the Board, or the Chairman of the CHRC.

If the CHRC shall decide by a majority vote that the matter might warrant a penalty in excess of its own authority, the chairman of the CHRC shall refer the matter to a hearing panel of the Board for further hearings and decision.

403.D. Decisions

Promptly following a hearing, the respondent shall be issued a written decision of the CHRC's findings, which shall include: the notice of charges (or a summary thereof); the answer to the charges, if any, (or a summary thereof); a brief summary of the evidence produced at the hearing (or, where appropriate, incorporation by reference of the investigation report); a statement of findings and conclusions with respect to each charge, including the specific rules which the respondent is found to have violated; a declaration of any penalty imposed and the effective dates of such penalty; and the availability, if any, of an appeal of the decision within the Exchange or to the Commodity Futures Trading Commission.

403.E. Emergency Actions

1. The CHRC is authorized to determine whether an emergency exists and whether emergency action is warranted. The following events and/or conditions may constitute emergencies:
 - a. Any circumstances which may materially affect the performance of contracts traded on the Exchange, including failure of the payment system;
 - b. Any action taken by the United States or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;
 - c. The actual or threatened bankruptcy or insolvency of any Member or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a Member of the Exchange which may affect the ability of that Member to perform on its contracts;
 - d. Any circumstance in which it appears that a Member or any other person or entity has failed to perform contracts, is insolvent, or is in such

financial or operational condition or is conducting business in such a manner that such person or entity cannot be permitted to continue in business without jeopardizing the safety of customer funds, Members, and/or the Exchange; and/or

e. Any other unforeseeable or adverse circumstances with respect to which it is not practicable for the Exchange to submit, in a timely fashion, a rule to the CFTC for prior review under the Commodity Exchange Act.

2. In the event that the CHRC determines, in the good faith exercise of its sole discretion, that an emergency exists, it may take any of the following emergency actions or any other action that may be appropriate to respond to the emergency:

a. Order the Clearing Member or his customer to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;

b. Prescribe such additional capital requirements as it deems appropriate;

c. Prescribe such position limitations as it deems appropriate;

d. Order special or advance performance bond or funds to be deposited with the Clearing House from Members or from longs, shorts or both; and/or

e. Order such performance bond changes as it deems appropriate.

All actions taken pursuant to this subsection shall be by majority vote of the committee members present. A Member affected by the action taken shall be notified in writing of such action. As soon as practicable, the Board and the CFTC shall be promptly notified of the emergency action in accordance with CFTC regulations. Any action taken pursuant to this subsection may not extend beyond the duration of the emergency, and shall not continue beyond 30 days following the imposition of the action without express CFTC authorization. In no event shall action taken pursuant to this Rule remain in effect for more than 90 days following its imposition. Nothing in this section shall in any way limit the authority of the Board, other committees, or other appropriate officials to act in an emergency situation as defined by these rules.

403.F. Appeal of Administrative Fines

Appeals of administrative fines in excess of \$25,000, imposed pursuant to Rule 852, shall be heard by a panel comprised of a co-chairman and three members of the CHRC. The panel's decision shall be final. The appellant shall be advised of its right to appear at the hearing and of its right to be represented by legal counsel or a member of the Exchange, other than a member of the CHRC, a member of the Board or an employee of the Exchange. The appellant may present evidence in support of its appeal. The panel shall

not set aside, modify or amend the decision appealed from unless the panel determines by a majority vote that the decision was:

1. Arbitrary, capricious, or an abuse of Exchange staff's discretion; or
2. In excess of Exchange staff's authority or jurisdiction.

404. ~~[RESERVED]~~

4054. PIT COMMITTEE

The Pit Committee shall have the authority to jurisdiction over all pit infractions. shall: 1) supervise opening and closing ranges in accordance with Rule 546; 2) shall oversee and enforce changes in prices occurring pursuant to in accordance with Rule 528; 3) shall resolve pit space disputes; and 4) shall have authority and discretion to remove unauthorized persons from unwarrantedly remaining in the pit; 5) . The committee shall resolve, by immediate action, all grievances arising from price infractions pursuant to Rule 514 during pit trading; and 6) . In addition, the Pit Committee shall have jurisdiction to conduct summary proceedings for alleged violations of, and assess penalties in accordance with Rule 514, "Trading Infractions."; provided, however, that with respect to alleged egregious violations of Rules 514.A.6.-9., the charges shall be heard by a panel of the Pit Supervision Committee. The procedures contained in Rule 41509 shall govern the summary proceedings.

To the extent required by Rule 813.D., Pit Committee members shall use their experience and reasonable efforts in the creation of settlement prices and agree to assign and transfer to the Exchange any and all right, title and interest in and to the settlement prices, including, but not limited to, all copyrights in the settlement prices.

A Pit Committee member shall not exercise his authority if he or any person, firm, or broker association with which he is affiliated a member of his broker association has a personal, financial, or other direct personal interest in the matter under consideration. A Pit Committee member shall be deemed to have a financial interest if the decision will is likely to have an immediate financial consequences impact on a transaction for his account or an account in which he has an interest or if the decision is likely to impact on liability for filling an order for which he or a person with whom he has a financial or business relationship financially related person was responsible.

4065. PIT SUPERVISION COMMITTEE

The Pit Supervision Committee shall have supervisory responsibility for actions taken by the Pit Committee. It shall be responsible for resolving pit space disputes that are not resolved by the Pit Committee. The committee shall conduct summary proceedings for alleged egregious violations of Rules 514.A.6.-9. enforce the rules regarding trading infractions and decorum offenses and shall resolve all grievances arising from price infractions during pit trading when required by Exchange rRules. The Pit Supervision

Committee shall have jurisdiction to conduct ~~appeal hearings and~~ summary proceedings for violations of, and assess penalties in accordance with, Exchange ~~r~~Rules. The procedures contained in Rule 41509 shall govern summary proceedings.

4076. PROBABLE CAUSE COMMITTEE

The Probable Cause Committee ("PCC") shall receive and review investigation reports from the ~~Division of Market Regulation Department~~. ~~It~~The PCC shall act through a Panel comprised of a chairman, four Members and three non-members. A quorum of a Panel shall consist of a majority of the Panel, but must include at least one Member and two non-members.

Each Panel that conducts a hearing or proceeding shall consist of panelists who possess sufficiently diverse interests so as to ensure fairness in accordance with CFTC Regulation 1.64

The PCC shall determine, by the majority vote of the Panel members present, whether there is a reasonable basis to charge a rule violation. The PCC and shall be responsible for the preparation and issuance of charges which shall be referred for hearing to the appropriate committee as provided in. The matter shall be set for hearing before the appropriate committee in accordance with this Chapter 4.

~~A Probable Cause Committee panel shall consist of a chairman and two voting non-members.~~

~~A Probable Cause Committee proceeding shall include sufficient different membership interests so as to ensure fairness and to prevent special treatment or preference for any person in the conduct of the division's responsibilities. Such membership interests include: 1) floor brokers; 2) floor traders; 3) futures commission merchants; 4) producers, consumers, processors, distributors, and merchandisers of commodities traded on the Exchange; 5) participants in a variety of pits or principal groups of commodities traded on the particular contract market; and 6) other market users or participants. In addition, each panel shall satisfy one or both of the following: a) there is no single membership interest described above with which 50% or more of the individuals on the panel are primarily associated; or b) there is no single pit in which 50% or more of the individuals on the panel conduct their primary trading activity.~~

The Managing Director of Regulatory Affairs may appeal to the Board any refusal by the PCC to issue charges or to issue those charges requested by the Market Regulation Department. shall have the right to request reconsideration by the Board of decisions of the Probable Cause Committee. If such an appeal is requested, the Board shall conduct a *de novo* hearing on the matter in accordance with the procedures in Rule 410.

No person shall serve on the ~~PCC~~Probable Cause Committee unless ~~and until~~ he has first agreed in writingpledged to the Exchange that during the period of such service he will not publish, divulge or make known in any manner, any facts or information regarding

the business of any person or entity or any other information which may come to his attention in his official capacity as a member of the PCC~~Probable Cause Committee~~, except when reporting to the Board or to a committee concerned with such information or to the Legal Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled~~dealt upon~~ to testify in any judicial or administrative proceeding. Violation of this agreement~~the pledge~~ shall be a major offense.

All information and documents provided to the PCC and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

INVESTIGATIVE & HEARING PROCEDURES

4087. INITIAL INVESTIGATION, AND ASSIGNMENT FOR HEARING AND NOTICE OF CHARGES

The ~~Division of Market Regulation Department~~ shall investigate alleged rule violations. The ~~Division~~Market Regulation Department shall endeavor to complete investigations within four months. ~~The Division shall report the results of its investigations to the Managing Director of Regulatory Affairs.~~ Investigations and all information and documents obtained during the course of an investigation shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law. The Market Regulation Department may tape record interviews conducted pursuant to an Exchange investigation.

Upon conclusion of an investigation, the Market Regulation Department may issue a warning letter to the Member under investigation. Such letter shall not constitute either the finding of a rule violation or a penalty.

If the ~~Division of Market Regulation Department~~ has reasonable cause to believe an offense has occurred which should~~may best~~ be dealt with by a panel of the BCC or a Hearing Panel of the Board of Directors, (collectively, "Panel") ~~an investigative and hearing committee of the Exchange, heit~~ shall transmit to the Chairman of the ~~PCC~~Probable Cause Committee the investigation report~~prepared by the Division of Market Regulation~~. In addition to the investigation report, the Market Regulation Department may provide to the PCC a summary of the investigation and its conclusions and a recommendation that the file be closed, that a warning letter be issued, or that charges be issued and referred to a Panel for disposition. ~~If there is probable cause to believe that the violation of the rule is of sufficient importance to warrant a direct hearing before the Board, then the Division of Market Regulation or Chairman of the Probable Cause Committee shall file with the Chairman of the Board the investigation report or, if a hearing has been held, the findings and recommendations of the hearing body.~~

4087.A. _____ Investigation Report

The investigation report shall include the reason for initiating the investigation, a summary of the complaint, if any, all and facts relevant to the matter, and the Division's recommendations which shall specify that a warning letter be issued, the file be closed, or that the matter be referred to a committee. The investigation report shall become part of the investigation file.

~~If after an investigation the Division concludes that no reasonable basis exists for finding a rule violation, a written report documenting the reason for initiation of the investigation, a summary of the complaint, if any, all facts relevant to the matter, and staff's conclusions shall be prepared and become part of the investigation file which will then be closed.~~

~~The Division of Market Regulation may, upon appropriate findings, issue a warning letter to the member under investigation or recommend that the Probable Cause Committee issue a warning letter. Such letter shall not constitute either the finding of a rule violation or a penalty.~~

4087.B. _____ Committee Review of Investigation Report

~~A panel of the PCCThe Committee ("PCC Panel") shall endeavor to review an investigation report accepted as completed and, within 30 days of receipt of the report, the PCC Panel deems to be complete. The PCC Panel shall take one of the following actions: If the PCC Panel determines that disciplinary action is unwarranted it shall direct that no further action be taken or that a warning letter be issued. If the PCC Panel determines that whether a reasonable basis exists for finding that a violation of an Exchange rule may have occurred which may warrant disciplinary action, it shall issue appropriate the issuance of charges based upon a violation of the rules of the Exchangeand designate which investigative and hearing committee shall consider the matter. Based on the report, the Committee may issue a warning letter, direct that the member be served with a notice of charges, or determine that a reasonable basis for a rule violation does not exist and no action is warranted. If the Committee directs that the member be served with a notice of charges, it shall refer the matter to committee. The Division of Market Regulation Department shall give notice of the charges to the Member charged and to the appropriate hearingnotify the committee chairman of the committee hearing the matter of the determination and furnish each with a copy of transmit to that chairman the investigative report excluding the Market Regulation Department's conclusions and recommendations and notice of charges. The chairman shall set the matter for hearing.~~

~~The PCCProbable Cause Committee shall have the power to compel any mMember, clearing member or member's employee to appear before it and to produce all books and records relevant to the subject matter under investigation. No mMember shall have the right to appear before the PCCProbable Cause Committee.~~

~~The decisions of the Committee shall be by majority vote.~~

All determinations made by the ~~Probable Cause Committee~~ PCC Panel shall be in writing, including the reasons therefor, all of which shall become part of the investigation file. The investigation file shall then be closed unless the PCC Panel ~~Committee~~ has determined that charges should be issued.

~~The Managing Director of Regulatory Affairs shall have the right to request reconsideration by the Board of decisions of the Probable Cause Committee.~~

4087.C. _____ Notice of Charges; Opportunity for Hearing

~~The notice of charges shall set forth the alleged misconduct and indicate the rule(s) the respondent is alleged to have been violated, by his conduct, by describing such conduct and shall advise the respondent him of the opportunity to submit regarding the submission of a responsive an answer to each the charge, in writing, within 10 days of receipt of the notice, which time may be extended upon good cause shown in accordance with Rule 407.D. Further, the notice shall advise the respondent of the committee before which the matter will be heard and of the time and place for the hearing, if known. The respondent He shall also be advised of his right to appear personally at the hearing and of his right to be represented by legal counsel or a member of the Exchange, other thaneounsel or other representative, other than a member of the investigation or hearing committee, a member of the PCCProbable Cause Committee, a member of the Board or an employeeeofficial of the Exchange. A respondent may waive his right to a hearing within 10 days of receipt of the notice of charges.~~

~~A respondent who elects to waive his right to a hearing will be notified, within three days of the Panel's decision, of the findings of the committee and the penalties, if any, to be imposed and their effective date. Where a penalty is to be imposed without a hearing, the respondent will be advised of his right to request, within 10 days of receipt of the decision, a hearing before the Panel on the penalty. A respondent who elects to waive his right to a hearing will be notified, within 3 days of the Committee's decision, of the findings of the Committee and penalties, if any, to be imposed and their effective date. Where a penalty is to be imposed without a hearing, the respondent will be advised of his right to request, within 10 days of receipt of the decision, a hearing before the Committee on the penalty.~~

4087.D. _____ Answer to Charges

~~If the respondent files a written answer to charges, it must state that the respondent admits or denies each charge included in the notice of charges. A respondent who is unable to obtain information necessary to enable him to admit or deny a charge shall be deemed to have denied the charge. Failure to file an answer shall not have the effect of an admission or denial of any of the charges contained in the notice. The respondent shall have 21 days after notice to submit a written answer to the charges. Upon a showing of good cause, the Panel chairman may extend the period of time in which the respondent is~~

required to submit his answer. The answer must state that the respondent admits, denies, or lacks sufficient knowledge to admit or deny each charge. A statement of lack of sufficient knowledge shall be deemed a denial. Any charge not denied in whole or in part shall be deemed admitted, and the failure to file a timely answer may be deemed an admission to the charges. If all the charges are admitted in the answer, the respondent shall be deemed to waive his right to a hearing on the charges and the Panel Committee will shall find that the violations alleged in the notice have been committed. The Committee Panel will determine the penalty, if any, to be imposed at a hearing, due notice of which will be provided to the respondent. The respondent shall be advised of his right to appear personally at the penalty hearing and advised of his right to be represented by legal counsel or another member of the Exchange, other than a member of the investigation or hearing committee, a member of the PCC, a member of the Board or an employee of the Exchange. then notify the respondent, in writing, of the penalty to be imposed and advise him of his right to request a hearing on the penalty within 10 days.

~~Following the filing of~~ If an answer which contains both an admission to one or more charges and a denial of one or more charges, the ~~Panel~~ committee will consider the penalties which may to be imposed for the admitted upon admissions to charges at the same time as the charges matters denied by the respondent are considered.

408.E. ~~Acceptance of Penalty~~

~~At any time during a hearing subsequent to the presentation of evidence by the Division of Market Regulation, a respondent may request that he be permitted to accept a penalty without either admitting or denying the rule violations upon which a penalty is based. If the request is accepted by the Committee, the Committee will then impose a penalty. A written decision shall be filed by the Committee specifying the rules alleged to have been violated, a statement that the respondent has accepted the penalty without admission or denial and the penalty to be imposed.~~

4098. CONDUCT OF HEARINGS

408.A. General

All disciplinary proceedings hearings conducted before a panel of the BCC or before a hearing panel of the Board of Directors (collectively, "Panel") other than summary hearings and Probable Cause reviews shall be conducted in accordance with the following procedures. Prior to the hearing, written notice must be sent to the member under investigation specifying the offense with which he is charged. A reasonable time and place for the hearing shall be included in the notice. Hearings shall be fair and conducted before the Committee, as directed by the Probable Cause Committee. No member of the Panel Committee may serve on the particular hearing body if he has a personal, or financial or other direct interest in the matter under consideration or is a member of the same broker association as defined in Rule 515 as the respondent. The respondent shall have the right to appear personally at the hearing and to be represented by legal counsel or a member of the Exchange, other than a member of the investigation or hearing committee, a member of the PCC, a member of the Board or an employee of

the Exchange. The Panel hearing or its chairmanbody shall have the power to compel any mMember or member's employee to attend, to testify and/or to produce evidence in connection with the hearingall books and records relevant to the subject matter under investigation.

408.B. Pre-Hearing

1. Procedural and Evidentiary Matters

The Panel chairman may require a pre-hearing conference.

The Panel chairman shall have the authority to decide all procedural and evidentiary matters and all motions, except those which seek to dismiss any or all of the charges. The chairman's decision shall be final.

Prior to the hearing, the respondent member under investigation may examine all evidence which is to be relied upon by the Division of Market Regulation Department during the hearing, or which is relevant to the charges. The respondent may obtain a copy of all such evidence, and any copying costs shall be the sole responsibility of the respondent. A respondent who seeks documents that are not in the possession of the Market Regulation Department may request the documents from their custodian. The Market Regulation Department is not required to produce or obtain any documents that are not in its possession. Upon a showing of good cause, the respondent may petition the Panel chairman to compel the production of documents by a custodian, provided that the custodian is subject to the jurisdiction of the Exchange, the custodian has refused voluntarily to provide the documents, and the documents are relevant to the charges. The Market Regulation Department may object, in whole or in part, to any such petition.

The issuance of charges shall not restrict the Market Regulation Department from further investigating the activity underlying the charges or investigating other potential violations by the respondent.

2. Dispositive Motions

A motion seeking to dismiss any or all of the charges shall be in writing and submitted to the BCC's counsel at least 21 days in advance of the originally scheduled hearing date and a copy shall also be provided to the Market Regulation Department. Upon receipt, the Market Regulation Department shall have seven days to submit a written response to the Legal Department, and shall provide a copy to the respondent. The motion shall be decided by the Panel. The Panel chairman shall determine whether the motion will result in an oral hearing or be decided on the written filings. The decision of the Panel shall be final.

3. Submission of Documents and Identification of Witnesses by Respondent

At least ten days in advance of the hearing, the respondent shall submit to the Market Regulation Department copies of all documents and records upon which the respondent plans to rely at the hearing, and provide a list of, and make available for inspection by the Market Regulation Department, all books, records, names of witnesses and other tangible evidence upon which the respondent plans to rely at the hearing. The Panel may refuse to consider any books, records, documents or other tangible evidence which was not made available to, or witnesses whose names were not submitted to, the Market Regulation Department pursuant to this section.

4. Legal Arguments of Respondent

At least ten days in advance of the hearing, the respondent shall submit to the Market Regulation Department all factual information and legal arguments upon which the respondent intends to rely in defense of the charges at the hearing. The Panel may refuse to consider any factual information or legal arguments not provided to the Market Regulation Department pursuant to this section.

408.C. Settlement Offers

A respondent that is the subject of an investigation or charges may submit for consideration by the Panel a written offer of settlement in disposition of such investigation or charges. A respondent may submit a settlement offer without admitting or denying the rule violations upon which the penalty is based; provided, however, that an offer must include a consent to entry of findings by the Panel regarding the conduct and rule violations at issue and to the penalty to be imposed.

If the Market Regulation Department does not oppose the respondent's offer of settlement, the respondent's written offer of settlement and the Market Regulation Department's supporting statement shall be submitted to the Panel for consideration.

If the Market Regulation Department opposes the respondent's offer of settlement, the respondent's written offer of settlement and the Market Regulation Department's written opposition shall be submitted to the Panel for consideration. In considering whether to accept the respondent's offer, the Panel shall examine the respondent's written offer of settlement, the Market Regulation Department's written opposition, and the evidence presented to the PCC with respect to such matter.

The respondent may withdraw his offer at any time prior to final acceptance of the offer by the Panel. If the Panel accepts the offer, a written decision setting forth the Panel's findings and sanction shall be issued, and written notice of the decision shall be given to the respondent.

If the Panel rejects the offer, the respondent will be notified of the rejection and the offer will be deemed withdrawn. If an offer is withdrawn or rejected by the Panel, the respondent shall not be deemed to have made any admissions by reason of the offer and shall not otherwise be prejudiced by having submitted the offer.

The Panel chairman may decline to convene the Panel to consider a settlement offer. Upon consent by the respondent, any hearing that follows a rejected settlement offer will be heard by the same Panel.

In submitting a settlement offer, the respondent waives his right to a hearing and to appeal the Panel's decision if the offer is accepted; the respondent also waives any claim of bias or prejudgment on the part of the Panel. If a respondent submits an offer within 14 days of a scheduled hearing on the charges, or after the hearing has begun, the offer shall not stay the hearing unless otherwise determined by the Chairman of the Panel.

408.D. Hearings

The Division of Market Regulation Department shall be a party to the hearing and shall present evidence on the charges. The staff of the Division Market Regulation Department and the members of the Panel hearing body may actively question any witness and examine all the evidence. The respondent member shall be entitled to under investigation may appear personally, testify, produce evidence, call witnesses in on his own behalf and may cross-examine any witness. The Market Regulation Department bears the burden of establishing the basis for a finding of guilt on any charge by a preponderance of the evidence. Formal rules of evidence will shall not apply be applicable. In the event that a novel or significant issue is presented, a committee chairman may have a matter decided by the entire committee rather than a hearing panel.

The member may be represented by another member of the Exchange, or by legal counsel, but may not be represented by a member of the Board, a member of the investigating and hearing committee, a member of the Probable Cause Committee or an official of the Exchange.

All testimony and documents produced in connection with a disciplinary hearing conducted pursuant to this Chapter 4 shall be deemed non-public and confidential and shall not be revealed or otherwise used, disclosed except in connection with disciplinary proceedings resulting from that hearing or as required by law. An audiotape or A other substantially verbatim record of the hearing shall be made and become part of the record of the proceeding. The record need not be transcribed unless requested by the respondent, the Exchange or the Commodity Futures Trading Commission; the decision is appealed; or a review is conducted by the Commodity Futures Trading Commission. If at the respondent has requested a copy of the transcript, the cost shall be solely responsible for the cost of producing the transcript borne by him.

A majority vote of the Panel hearing body is required for a finding of guilt. A member respondent that is found not guilty shall not again be charged with or tried for the same underlying conduct offense. In the event of a finding of guilt, the Panel may request additional information or argument from the parties as to the appropriate nature and amount of a sanction prior to determining such sanction. In the absence of exceptional circumstances, as determined by the Panel chairman, such argument shall proceed immediately upon the conclusion of the evidence and determination of the committee.

408.E. Decisions

~~In all cases,~~ Promptly following a hearing, the respondent shall be issued -a written ~~decision report of the Panel's findings,~~ which shall include: the notice of charges (or a summary thereof); the answer to ~~the charges,~~ if any (or a summary thereof); a ~~brief~~ summary of ~~the evidence produced at the hearing (or, where appropriate, incorporation by reference of the investigation report);~~ a statement of findings ~~and conclusions with respect to~~ regarding each charge, ~~including the specific rules which the respondent is found to have violations of;~~ a declaration of any penalty imposed ~~penalties and their the effective dates of such penalty;~~ and the availability, if any, of an appeal of the decision ~~within the Exchange or to the Commodity Futures Trading Commission.~~

41509. SUMMARY PROCEEDINGS BEFORE THE PIT COMMITTEE AND THE PIT SUPERVISION COMMITTEE

41509.A. Jurisdiction

A member of the Pit Committee, ~~or a member of the Pit Supervision Committee, or a designated representative of the Division of Market Regulation Department~~ shall have the authority to issue charges against an individual with respect to trading infractions as set forth in Rule 514. A member of the Pit Supervision Committee or a designated representative of the Market Regulation Department shall additionally have the authority to issue charges against an individual with respect to trading infractions listed in Rule 514.A.6.-9. that are of an egregious nature. A panel of the Pit or Pit Supervision Committee shall have authority to conduct summary proceedings with respect to such charges under Rule 514, except for charges pursuant to Rule 514.A.6.-9. that are of an egregious nature which must be heard by a panel of the Pit Supervision Committee.

~~A member of the Pit Committee or a designated representative of the Division of Market Regulation shall have the authority to issue charges against an individual with respect to trading infractions listed in Rule 514.A.6.-9. which are of an egregious nature. A panel of the Pit Supervision Committee shall have authority to conduct summary proceedings with respect to such charges.~~

Charges against an individual shall be issued by filing the appropriate forms with the ~~Division of Market Regulation Department~~ and by giving a copy to the respondent.

41509.B. Selection of the Panel

For proceedings before the Pit Committee, a Pit Vice-Chairman ~~or, in his absence, a Pit Supervision Committee member or, in his absence, a Pit Supervision Committee Chairman, Co-Chairman~~ shall select a panel consisting of three ~~additional members of the Pit Committee or the Pit Supervision Committee, which may include other Co-Chairmen of the Pit Supervision Committee.~~ ~~The Pit Vice-Chairmen shall use their best efforts to endeavor~~ to rotate the members serving on the panels.

For proceedings before the Pit Supervision Committee, a Pit Supervision Committee ~~Chairman~~Co-Chairman or a Vice-Chairman of the Committee shall select a panel consisting of three additional members of the Pit Supervision Committee, which may include other Co-Chairmen of the committee. ~~The Pit Supervision Committee Chairmen or one of the Vice-Chairmen of the Committee~~Chairmen shall use their best ~~efforts~~endeavor to rotate the members serving on the panels.

~~No panelist~~A member may ~~not~~ serve on the particular panel if he or any person, ~~or firm,~~ or broker association with which he is affiliated has a personal, financial, ~~personal~~ or other direct interest in the matter under consideration.

41509.C. _____ Conduct of Summary Proceedings

A summary proceeding before the Pit Committee ~~or Pit Supervision Committee~~ shall be conducted in a fair and impartial manner, ~~by the Pit Vice-Chairman or, in his absence, a Pit Supervision Committee member. In the absence of both the Pit Vice-Chairman and a Pit Supervision Committee member, the Pit Supervision Committee Chairman shall conduct the proceedings.~~

~~A summary proceeding before the Pit Supervision Committee shall be conducted in a fair and impartial manner by the Chairman or a Vice-Chairman of the Committee.~~

A summary proceeding before the Pit Committee or Pit Supervision Committee shall take place on the same day that charges are issued or as soon as ~~possible~~practicable thereafter. The proceeding will not be recorded. The respondent shall be entitled to appear personally and answer the charges issued. Respondents and witnesses may not be represented by ~~No counsel will be permitted at a summary proceeding, except that~~ An employee without membership privileges who is a respondent may be represented by a single representative of his employer, who may not be an attorney ~~the employer of a non-member respondent may appear as a representative of his employee.~~ A panel shall decide by a majority vote whether the individual is guilty of the violation or offense charged. If the accused individual is found guilty, a panel may impose fines in accordance with Exchange rules~~Rule 514.~~ A witness that fails to appear at a summary proceeding after being directed to do so by a Chairman of the panel or by staff may be charged with a violation of Rule 432.L., a major offense.

If a panel of the Pit Committee, by a majority vote, ~~shall decide~~ that the trading infraction is of an egregious nature as described in Rule 514.A., it shall refer the matter to the Pit Supervision Committee. If a panel of the Pit Committee, by a majority vote, shall decide that the matter is of major importance or might warrant a penalty in excess of the Pit Supervision Committee's authority, the chairman of the Pit Committee shall refer the matter to the ~~PCC~~Probable Cause Committee or the Board and shall inform the individual of this referral in writing.

If a panel of the Pit Supervision Committee, by a majority vote, ~~shall decide~~ that the matter is of major importance or might warrant a penalty in excess of its own authority,

the Chairman of the Committee shall refer the matter to the ~~PCC~~Probable Cause Committee or Board and shall inform the individual of this referral in writing.

41509.D. Appeals

An individual found guilty of an offense who receives a fine greater than \$1,000 may, within 10 days of the decision, file a written appeal of the decision with the ~~Division of Market Regulation Department~~. ~~A~~The written appeal ~~that fails to~~shall specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed. The appeal shall be reviewed by the Chairman of the ~~Business Conduct Committee~~ who shall determine if the appeal raises a prima facie showing of an error or impropriety based upon the grounds set forth below. If a prima facie showing is not made, the appeal shall be dismissed and considered final. If a prima facie showing is made, ~~t~~The appeal shall be heard by a Panel of the ~~BCC~~Business Conduct Committee ("BCC Panel") whose decision shall be final. The appellant shall be entitled to be represented by counsel, appear personally before the ~~Committee~~BCC Panel and present evidence that he may have in support of his appeal. The ~~Business Conduct Committee~~BCC Panel shall not set aside, modify or amend the appealed decision ~~appealed from unless it determines, by majority vote, that the decision was:~~

1. ~~a~~Arbitrary, capricious, or an abuse of the committee's discretion in the imposition of the penalty; or
2. ~~i~~n excess of the ~~panel's~~committee's authority, or jurisdiction or limitations; or
3. ~~without observance of required procedures.~~

410. ORIGINAL HEARINGS BEFORE A HEARING PANEL OF THE BOARD OF DIRECTORS

Whenever an original hearing is scheduled to be held before a hearing panel of the Board ("Panel"), the Chairman of the Board shall ~~determine whether the matter shall be held before the Board as a whole or before a hearing committee of the Board.~~

A. ~~Board as a Whole~~ In the event the matter is held before the Board as a whole, it shall be held before at least a quorum of the directors at a duly constituted meeting. The hearing shall be conducted by the Chairman and shall require the affirmative vote of two-thirds of the directors present, but in no event less than eight directors for a finding of guilty on a major offense, and the affirmative vote of a simple majority of those present for a finding of guilty on a minor offense.

B. ~~Hearing Committee~~ In the event the matter is held before a hearing committee of the Board, the Chairman shall appoint a director to serve as the Panel chairman, who shall conduct the hearing, and ~~two~~three additional directors to serve on ~~said committee~~the Panel. In a disciplinary matter, ~~o~~One of these directors shall be a non-member director. The hearing shall be conducted by the Chairman, or, in his absence or upon his order, by

~~another member of the Board.~~ A majority decision by the Panel ~~hearing committee~~ shall be considered the action of the Board as a whole.

In a disciplinary matter, each Panel that conducts a hearing or proceeding committee shall consist of included directors that possess sufficiently different diverse membership interests so as to ensure fairness in accordance with CFTC Regulation 1.64. ~~and to prevent special treatment or preference for any person in the conduct of the committee's responsibilities.~~ Such membership interests include: 1) floor brokers; 2) floor traders; 3) futures commission merchants; 4) producers, consumers, processors, distributors, and merchandisers of commodities traded on the Exchange; 5) participants in a variety of pits or principal groups of commodities traded on the particular contract market; and 6) other market users or participants. In addition, in a disciplinary matter, the committee shall satisfy one or both of the following: a) there is no single membership interest described above with which 50% or more of the individuals on the committee are primarily associated; or b) there is no single pit in which 50% or more of the individuals on the committee conduct their primary trading activity. The hearing shall be conducted in accordance with the provisions of Rule 408.

No member of the Board may serve on ~~a~~ the particular hearing body ~~Panel~~ if he participated on the charging committee or has a personal, or financial or other direct interest in the matter under consideration or is a member of the same broker association as the respondent.

~~411. HEARINGS AND ACTIONS OF THE BUSINESS CONDUCT COMMITTEE~~

~~411.A. Hearings~~

~~Hearings by the Business Conduct Committee shall be before a panel and shall be conducted by the committee chairman.~~

~~The committee shall decide by a majority vote whether the member is guilty of the violation charged. If the accused member is found guilty, the Business Conduct Committee may:~~

- ~~1. Order the member to cease and desist from the conduct found to be in violation of the rules;~~
- ~~2. Order the member to liquidate such portion of the open contracts in the member's proprietary or customers' accounts, or both, as the committee deems necessary to insure the integrity of the Exchange contracts or to insure an orderly and liquid market;~~
- ~~3. Order the member or his customer to deposit such additional performance bonds with the Exchange as the committee deems necessary to protect the integrity of open contracts;~~

4. ——— Impose a period of probation upon the member;
5. ——— Suspend any or all of the privileges of membership, the privileges of being affiliated with, or having an interest in, a broker association or guaranteed introducing broker, the privileges of acting in the capacity of a GLOBEX terminal operator and cross-exchange trading privileges or, in the case of an employee of a member or clearing member, suspend trading floor access and/or the right to associate with a member or clearing member;
6. ——— Impose a fine upon the member not to exceed \$500,000 plus the amount of any benefit received as a result of the violative action;
7. ——— Prescribe limitations on positions of the member as may be necessary;
8. ——— Impose advertising restrictions upon the member pursuant to these rules; or
9. ——— Direct the member to make an adjustment, in such amount as is warranted by the evidence, to the account of the customer injured by the conduct found to have violated the rules of the Exchange. The Committee may also find that the evidence warrants an adjustment to the account of a customer where a member, though not in violation of an Exchange rule, has not fulfilled his responsibility for proper execution of a customer order.

If the committee shall decide by a majority vote that the manner is of major importance or might warrant a penalty in excess of its own authority, the chairman of the committee shall refer the matter to the Board for further hearings and decision.

411.B. Emergency Situations

The Business Conduct Committee is hereby delegated power and authority to act in the event that it determines, by investigation or hearing, the existence of an emergency which threatens the integrity, liquidity or orderly liquidation of any contract. The Business Conduct Committee may exercise its emergency powers in the event that it has reasonable cause to believe that any of the following listed occurrences and circumstances exist:

1. ——— Any manipulative activity or attempted manipulative activity;
2. ——— Any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of positions;
3. ——— Any action taken by the United States or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;

4. ~~The bankruptcy or insolvency of any member or member firm of the Exchange or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a member of the Exchange which may affect the ability of that member to perform on its contracts;~~
5. ~~Any circumstance in which it appears that a member or any other person has failed to perform contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person cannot be permitted to continue in business without jeopardizing the safety of customer funds, members of the Exchange, or the Exchange; and~~
6. ~~Any other unusual, unforeseeable and adverse circumstance with respect to which it is not practicable for the Exchange to submit, in a timely fashion, a rule to the CFTC for prior review under the Commodity Exchange Act.~~

~~In the event that the Business Conduct Committee determines that an emergency situation exists, it may take any of the following actions or any other action that may be appropriate to remedy the situation:~~

1. ~~Terminate trading;~~
2. ~~Limit trading to liquidation of contracts only;~~
3. ~~Order liquidation of all or a portion of a member's proprietary and/or customer's accounts;~~
4. ~~Order liquidation of positions as to which the holder is unable or unwilling to make or take delivery;~~
5. ~~Confine trading to a specific price range;~~
6. ~~Modify the trading days or hours;~~
7. ~~Alter conditions of delivery;~~
8. ~~Fix the settlement price at which contracts are to be liquidated; or~~
9. ~~Require additional performance bond to be deposited with the Clearing House.~~

~~All actions taken pursuant to this subsection shall be by an affirmative two-thirds vote of the committee members present. A member or clearing member affected by the action taken shall be notified and may request a hearing before the Board provided in Rule 417. As soon as practicable, the Board and the Commission shall be promptly notified of the emergency action in accordance with CFTC regulations. Any action taken pursuant to this subsection may not extend beyond the duration of the emergency, and shall not continue beyond thirty days following the imposition of the action without express~~

~~Commission authorization. In no event shall action taken pursuant to this Rule remain in effect for more than ninety days following its imposition. Nothing in this section shall in any way limit the authority of the Board of Directors, other committees or other appropriate officials, to act in an emergency situation as defined by these rules.~~

411.C. Action Against Non-Members

~~If, after preliminary investigation by Exchange staff or the Division of Market Regulation, the Probable Cause Committee or the Business Conduct Committee has reason to believe or suspect that any non-member is conducting his trading activities in violation of the Commodity Exchange Act or Exchange Rules, pursuant to an agreement, understanding, concerted course of action or in violation of any other law, rule or regulation, it may, by due notice, request such non-member and any members that handle or clear his trades to appear, produce documents and testify at a Division of Market Regulation interview or investigation, or hearing to be conducted by the Business Conduct Committee.~~

~~If, after hearing, the Business Conduct Committee determines that the actions of such non-member threaten the integrity or liquidity of any contract or have, or are likely to result in a squeeze, corner or other form of manipulation, or violate the Commodity Exchange Act or Exchange Rules, the Business Conduct Committee may: 1) order any clearing member to liquidate all or any portion of such non-member's position; 2) order that no member accept new positions on behalf of any such non-member; 3) deny or terminate GLOBEX access of such non-member; or 4) order such action as is necessary to prevent a threat to the contract or further violations of the Commodity Exchange Act or Exchange Rules.~~

412. ~~HEARINGS AND ACTIONS OF THE CLEARING HOUSE RISK COMMITTEE~~

412.A. Hearings

~~Hearings by the Clearing House Risk Committee shall be before a panel of three individuals from the committee and shall be conducted by the committee chairman.~~

~~The committee shall decide by a majority vote whether the member is guilty of the violation or offense charged. If the accused member, after hearing, is found guilty or is found to be in a financial condition which jeopardizes or may jeopardize the integrity of the Exchange, the committee may:~~

- ~~a. — Order the member to cease and desist from the conduct found to be in violation of the rules or contrary to the best interests of the Exchange;~~
- ~~b. — Order the member or his customer to deposit such additional performance bond with the Exchange as deemed necessary to protect the integrity of open contracts;~~
- ~~c. — Prescribe such additional capital requirements as it deems necessary;~~

- d. — Prescribe such position limitations as it deems necessary;
- e. — Impose a fine against the member, not to exceed \$500,000 plus the monetary value of any benefit received as a result of the violative action; or
- f. — Suspend a clearing member if it finds that the financial condition of said clearing member is such that it jeopardizes or may jeopardize the integrity of the Exchange, subject to approval of any two of the following: the President, the Managing Director and President of the Clearing House, the Chairman of the Board, or the Chairman of the Clearing House Risk Committee. In the event of a suspension, the member's facilities and open trades shall remain suspended for liquidation only, until the matter is finally determined by the Board.

If the committee, by majority vote, shall decide the matter is of major importance or might warrant a penalty in excess of its own authority, the chairman of the subcommittee shall refer the matter to the Board or to the Business Conduct Committee for further hearings and decision.

412.B. Emergency Situations

The Clearing House Risk Committee shall have the power to determine that an emergency situation exists based on facts developed during the course of an investigation or hearing. The Clearing House Risk Committee may exercise its emergency powers in the event that it has reasonable cause to believe that any of the following listed occurrences and circumstances exist:

- 1. — Any circumstances which may materially affect the performance of contracts traded on the Exchange, including failure of the payment system;
- 2. — Any action taken by the United State or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;
- 3. — The bankruptcy or insolvency of any member or member firm of the Exchange or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a member of the Exchange which may affect the ability of that member to perform on its contracts;
- 4. — Any circumstance in which it appears that a member or any other person has failed to perform contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person cannot be permitted to continue in business without jeopardizing the safety of customer funds, members of the Exchange, or the Exchange; and

5. ~~Any other unusual, unforeseeable and adverse circumstances with respect to which it is not practicable for the Exchange to submit, in a timely fashion, a rule to the CFTC for prior review under the Commodity Exchange Act.~~

~~In the event that the Clearing House Risk Committee determines that an emergency situation exists which threatens the financial integrity of the Exchange or any of its members, it may take one or more of the following actions:~~

- a. ~~Order the member or his customer to deposit such additional performance bond with the Exchange as deemed necessary to protect the integrity of open contracts;~~
- b. ~~Prescribe such additional capital requirements as it deems necessary;~~
- c. ~~Prescribe such position limitations as it deems necessary;~~
- d. ~~Order special or advance performance bond or funds to be deposited with the Clearing House from individual members(s), clearing members(s) or from longs, shorts or both; or~~
- e. ~~Order such performance bond changes as it deems necessary.~~

~~All actions taken pursuant to this subsection shall be by an affirmative two-thirds vote of the committee members present. A member or clearing member affected by the action taken shall be notified and may request a hearing before the Board as provided in Rule 417. As soon as practicable, the Board and the Commission shall be promptly notified of the emergency action in accordance with CFTC regulations. Any action taken pursuant to this subsection may not extend beyond the duration of the emergency, and shall not continue beyond 30 days following the imposition of the action without express Commission authorization. In no event shall action taken pursuant to this rule remain in effect for more than 90 days following its imposition.~~

~~Nothing in this section shall in any way limit the authority of the Board of Directors, other committees or other appropriate officials to act in an emergency situation as defined by these rules.~~

413. ~~[RESERVED]~~

414. ~~[RESERVED]~~

416. ~~[RESERVED]~~

417. APPEAL TO A HEARING PANEL OF THE BOARD OF DIRECTORS

The Managing Director of Regulatory Affairs may request an appeal to a hearing panel of the Board ("Panel") regarding any decision of or sanction imposed by the BCC by filing a notice of appeal with the Exchange Legal Department within 10 business days after

receiving notice of such decision or sanction. Filing of a request for an appeal by the Managing Director of Regulatory Affairs shall stay the decision appealed unless the Chairman of the Board or the committee from which the appeal is taken specifically directs that the decision is not stayed pending appeal.

~~A member or clearing member~~ found guilty of an offense or otherwise aggrieved by a disciplinary decision of the ~~Division of Market Regulation~~ BCC or CHRC, or of any committee, other than the Arbitration Committee, may, within 10 business days of notice of any such decision, unless specifically prohibited, request an appeal to a Panel the Board; provided, however, that the member or clearing member may not appeal a decision assesses a monetary sanction greater than of \$10,000 and/or less a suspension of any membership privileges for greater than five business days against the member. Filing of a request for an notice of appeal by a Member shall not stay suspend the decision appealed from unless the Chairman of the Board, the Managing Director of Regulatory Affairs, or the committee from which the appeal is taken specifically directs that the decision be stayed.

~~The Board shall not set aside, modify or amend the decision appealed from unless it determines that the decision was:~~

- ~~a. Arbitrary, capricious, an abuse of discretion, or not in accordance with the rules of the Exchange;~~
- ~~b. In excess of the committee's or staff's authority, jurisdiction or limitations;~~
- ~~c. Without observance of required procedures;~~
- ~~d. Unsupported by substantial evidence; or~~
- ~~e. Unsupported by substantial facts.~~

Upon receiving the written request for an appeal, the Panel (in its sole discretion) shall determine whether sufficient grounds exist to grant the appeal. The Panel's determination shall be based solely upon the written request and any written response by the opposing party. The Panel's determination of whether to grant or deny the request for an appeal shall be final.

If the Panel grants the request for an appeal, the appeal shall be heard within 60 days of the filing of the notice of appeal, unless the Chairman of the Panel determines that good cause for an extension has been shown.

~~Except for good cause shown, the~~ appellate hearing shall be strictly limited to the record in the proceeding appealed from. The Chairman of the Panel shall allow the filing of briefs as may be useful to the Board in resolving the appeal, and may request the disciplinary committee chairman to appear before the appellate body as a witness.

No member of the Board of Directors shall ~~may~~ serve on the Board or a particular Panel hearing committee of the Board, in its appellate capacity, if he participated on the charging committee, the hearing committee ~~that~~ which originally heard the case or has a personal, ~~or~~ financial, or other direct interest in the outcome of the matter under consideration or is a member of the same broker association as the respondent.

Exchange staff shall determine whether the matter shall be heard before the Board or before a hearing committee of the Board and the matter shall be heard within 60 days of the filing of notice of appeal, unless the Chairman of the Board or of the hearing committee determines that good cause for an extension has been shown.

1. ~~Board:~~

If the appeal is to be decided by the Board, it shall be heard at a duly convened meeting at which at least nine directors in addition to the presiding officer are present. An affirmative vote of two thirds of the directors present and voting shall be necessary to set aside or modify the decision from which the appeal was taken.

2. ~~Hearing Committee:~~

~~A hearing committee~~The Chairman of the Board shall appoint ~~consist of three~~ directors to serve as the Panel Chairman, who shall conduct the hearing, ~~and appointed by the Chairman. In a disciplinary matter, one two of these additional directors to serve on the Panel. One of these directors shall be a non-member-director. The appellant may request the Chairman of the Board to strike one any director member of the committee, for good cause shown. The Chairman of the Board may then excuse such director and, in which event that director shall be excused from hearing the matter. In a non-disciplinary matter, the appellee may also strike one member of the committee, in which event that director shall be excused from hearing the matter, for good cause shown. The Chairman shall then select an alternate director participant from the Board. A Panel shall consist of directors that possess sufficiently diverse interests so as to ensure fairness. A meeting shall require the presence of each member and shall be conducted by the Chairman or, in his absence, by another member of the Board. A majority vote of the committee shall be required to set aside or modify the decision from which the appeal was taken.~~

The Panel shall not set aside, modify or amend the appealed decision unless it determines, by a majority vote, that the decision was:

A. Arbitrary, capricious, or an abuse of the committee's discretion; or

B. In excess of the committee's authority or jurisdiction.

A Board hearing committee, appointed to hear a disciplinary matter, shall include persons representing diverse segments of the derivatives business and public. The committee shall not have a majority of persons from the same segment of the industry or whose predominate trading activity is in the same commodity for purposes of this Rule, floor

brokers, floor traders, FCMs, producers, consumers, processors, distributors and other market users are examples of industry segments that will be considered in connection with the appointment of a hearing committee.

The ~~respondent~~Panel shall be issued a written decision which shall include a statement of findings with respect to the decision from which the appeal was taken and the Panel's determination that such initial decision is affirmed, set aside, modified or amended in whole or in part and, with respect to any initial decision that is not affirmed in whole, the Panel's determination of the order or penalty to be imposed, if any, and the effective date. The decision of the Panel shall be deemed a decision of the Board and shall be a final decision of the Exchange.

This rule shall not apply to appeals of Arbitration Committee decisions, which shall be governed by the rules contained in Chapter 6.

4182. SUMMARY ACTION

In cases of action taken against a ~~M~~member or clearing member pursuant to Rules 411.B., 412.B., 923, 940 or 941, the ~~M~~member or clearing member affected shall, ~~within two days,~~ be notified in writing ~~given a notice of the~~ such action. The notice shall state: the action taken; the reason for action; and the effective time, date and duration thereof.

The ~~m~~Member or clearing member may, within two business days following receipt of notice of action taken, request a hearing before a hearing panel of the Board ("Panel"). The hearing shall be conducted within 60 days of such request, unless the Chairman of the ~~Panel~~Board determines that good cause for an extension has been shown, in accordance with the requirements of Rule 4098, but shall not stay any action taken pursuant to Rules 411.B., 412.B., 923, 940 or 941.

Following the hearing, if any, the ~~Panel~~Board shall cause to be prepared a written decision containing: a description of the summary action; the reasons for such action; a summary of the evidence produced at the hearing; findings and conclusions; a determination that the summary action should be affirmed, modified or reversed and the reasons therefore; and the effective date and duration, if any, of subsequent or continuing actions. The ~~Panel~~Board shall modify or reverse summary action taken against a ~~M~~member or clearing member only if the ~~Board~~Panel determines that the action taken was found to be 1) arbitrary, capricious or an abuse of discretion, 2) lacking any reasonable basis in fact, or 3) taken in bad faith.

419. — [RESERVED]

420. — APPEAL HEARINGS BEFORE THE CLEARING HOUSE RISK COMMITTEE

Appeals of administrative fines in excess of \$25,000 established pursuant to Rule 852 shall be heard by a panel comprised of three individuals from the committee and shall be conducted by the committee chairman.

~~The Clearing House Risk Committee shall not set aside, modify or amend the decision appealed from unless it determines, by a majority vote, that the decision was:~~

- ~~1) — arbitrary capricious, or an abuse of discretion in the imposition of the penalty;~~
- ~~2) — in excess of the panel's or staff's authority, jurisdiction or limitation; or~~
- ~~3) — without observance of required procedures.~~

~~The member appealing the fine shall be entitled to appear in person before the panel and present any evidence he may have in support of his appeal. The panel shall decide by majority vote whether the member is guilty of the violation or offense charged, and the panel's determination shall be final, with no further right of appeal to the Board of Directors.~~

421. — [RESERVED]

42213. SUMMARY ACCESS DENIAL ACTIONS

42213.A.General _____ Authority to Deny Access

Members may be denied access to any or all Exchange markets or be denied access to the GLOBEX platform or be immediately removed from the trading floors by the Managing Director of Regulatory Affairs or his delegate upon a good faith determination that there are substantial reasons to believe that such immediate action is necessary to protect the best interests of the Exchange.

~~Upon receipt by the Exchange of actual notice that any member or any person employed on the floor by a member has entered a plea of guilty or has been adjudged guilty by a court of competent jurisdiction of a violation of any criminal statute involving moral turpitude, the Board may, if immediate action is necessary to protect the best interests of the marketplace, summarily and without a hearing, forbid such member from executing orders as a floor broker or deny access to the trading floor to such member or employee until the Exchange's investigation, including any disciplinary proceedings, is concluded. The issues to be determined by the Board in summary access denial actions are limited to: (1) whether or not the member or employee has entered a plea of guilty or has been adjudged guilty by a court of competent jurisdiction of a violation of any criminal statute involving moral turpitude; and (2) whether or not immediate action is necessary to protect the best interests of the marketplace.~~

42213.B. _____ Notice

The member or member's employee shall, whenever practicable, be served with a notice before the summary access denial action is considered. Such notice shall advise the respondent of the time and place for the Board meeting and shall advise the respondent that the Board will consider taking summary action to deny his access to the trading floor or other appropriate action pursuant to this Rule.

If prior notice is not practicable, or if the member or member's employee does not appear at the Board meeting at which a summary access denial action is taken, the member or member's employee shall be served with a notice at the earliest possible opportunity after the meeting. Promptly after an action is taken pursuant to Rule 413.A., the Member shall be informed of the action taken, the reasons for the action, and the effective date, time and the duration of the action taken. The Member shall be advised of his right to a hearing before a panel of the BCC ("Panel") by filing notice of intent with the Market Regulation Department within 10 business days of the Notice date. The subsequent notice shall state: (1) the action taken; (2) the reasons for the action; and (3) the effective date and time and the duration of the action taken. Any subsequent notice shall also advise the respondent of his right to a hearing on any action taken by the Board within five business days of such action.

42213.C. _____ Hearing

~~A~~The member or member's employee subject to a summary access denial action shall be given an opportunity for a hearing before the Board, at which hearing he shall have the right to be represented by legal counsel or a member of the Exchange, other representative, other than a member of the BCC, a member of the PCC, a member of the Board or an employee of the Exchange. If prior notice is given, the respondent may appear at the initial meeting of the Board to contest the summary access denial action before it is taken. If the respondent appears at the initial meeting, he shall not be entitled to request a subsequent hearing. If the respondent does not appear at the initial meeting, the respondent may request a subsequent hearing which shall be held within five business days of the summary access denial action. The Panel shall conduct a *de novo* hearing solely on the issue of the denial of ~~All hearings for summary access denial actions shall be conducted in accordance with the procedures requirements of in Rule 41008. Filing of a notice of intent pursuant to Rule 413.B. shall not stay the Managing Director of Regulatory Affairs' decision to deny access.~~ The Division of Market Regulation and members of the Board may actively question any witness and examine all evidence. The member or member's employee may appear personally, testify, produce evidence, call witnesses on his own behalf and may cross-examine any witness. Formal rules of evidence will not be applicable. All testimony and documents produced in connection with any hearing on a summary access denial action shall be deemed confidential and shall not be revealed or otherwise used, except in connection with disciplinary proceedings resulting from a respondent's plea of guilty to or an adjudication of guilt regarding a criminal statute involving moral turpitude, or as required by law. A substantially verbatim record of the hearing shall be made and become part of the record

~~of the proceeding. The record need not be transcribed unless: (1) requested by the respondent, the Exchange or the CFTC; (2) the decision is appealed; or (3) a review is conducted by the CFTC. If the respondent requests a copy of the transcript, the cost shall be borne by him.~~

~~Within five business days following the conclusion of the hearing on a summary access denial action, the Board shall render a written decision and shall provide a copy to the member or member's employee. The decision shall include: (1) a description of the action taken; (2) a brief summary of the evidence produced at the hearing; (3) findings and conclusions; and (4) a declaration of any action to be taken, including the effective time, date and duration of such action.~~

413.D. Duration of Access Denial

Any decision to deny access pursuant to Rule 413.A. or Rule 413.C. shall not remain in effect for more than 60 consecutive days unless the Managing Director of Regulatory Affairs or his delegate, upon further consideration of the circumstances that resulted in a prior access denial action, provides written Notice to the Member advising that the Member's access will be denied for an additional period of time not to exceed 60 consecutive days. Such Notice shall comport with the provisions of Rule 413.B. At any time, a Member may petition the BCC to reconsider the access denial based upon materially changed circumstances.

42314. INVESTIGATIONS BY OTHER SELF-REGULATORY ORGANIZATIONS

If a self-regulatory organization that is a party to an information sharing agreement with the Exchange requests assistance in connection with an investigation, the Managing Director of Regulatory Affairs~~President or the Board~~ may direct a ~~m~~Member, clearing member or any employee of a member or clearing member to submit to an examination by the requesting self-regulatory organization and to produce information pertinent to that investigation. The request for assistance shall describe the investigation, explain why Exchange assistance is necessary and describe the scope of assistance sought. An order directing a ~~m~~Member, clearing member or any employee of a member or clearing member to submit to an examination shall be issued unless the Managing Director of Regulatory Affairs ~~President or the Board~~ finds/determines that such order would not be ~~contrary to~~ the best interests or welfare of the Exchange. An examination pursuant to such order may be of the same scope as if the investigation had been initiated by the Exchange and shall be conducted according to Exchange rules. The examination and shall be conducted on Exchange premises under the direction of Exchange staff. At the discretion of the Managing Director of Regulatory Affairs, ~~R~~representatives of the requesting self-regulatory organization may observe and participate in the examination. Failure to comply with an order issued under this Rule may constitute a major offense.

42415. COOPERATION WITH OTHER EXCHANGES AND CLEARING ORGANIZATIONS

The Chief Executive Officer or the President, or their~~his~~ delegates, is~~are~~ authorized to provide information to an exchange or clearing organization that is a party to an information sharing agreement with the Exchange, in accordance with the terms and conditions of such agreement.

~~425. [RESERVED]~~

~~426~~16. AVOIDING CONFLICTS OF INTEREST IN MATTERS INVOLVING A NAMED PARTY IN INTEREST

~~_____~~ 42616.A. Definitions

For purposes of this rule:

- 1. ~~_____~~ "Committee" means the Board, any person, or body of persons that is authorized (a) to issue disciplinary charges, to conduct disciplinary proceedings, to settle disciplinary charges, to impose disciplinary sanctions, or to hear appeals thereof in cases involving any violation of the Exchange's rules; or (b) to recommend or establish policies or procedures with respect to the Exchange's surveillance, compliance, rule enforcement or disciplinary responsibilities.**
- 2. ~~_____~~ "Named Party in Interest" means a person or entity that is identified by name as a subject of any matter being considered by a Committee.**

~~426~~B. Determination Whether ~~_____~~ Abstention Requiredments

A member of a ~~C~~committee, Board hearing panel or appeal panel must abstain from ~~participating in such Committee's deliberations and voting on any matter involving a~~ "Named Party in Interest" where such member:

1. Is a witness, potential witness, or a party~~Named Party in Interest~~;
2. Is an employer, employee, or co-worker~~fellow employee~~ of a witness, potential witness, or a party~~Named Party in Interest~~;
3. Is associated with a witness, potential witness, or a party~~Named Party in Interest~~ through a "broker association" as defined in ~~CFTC Regulation 156.1~~Exchange rules;
4. Has any ~~other significant, ongoing personal or~~ business relationship with a witness, potential witness, or a party~~Named Party in Interest~~, not including relationships limited to (a) executing futures or options transactions opposite of each other, or (b) ~~to~~ clearing futures or option transactions through the same clearing member; or
5. Has a familial relationship~~Is related to a witness, potential witness, or a party~~Named Party in Interest as spouse, former spouse, parent, step-parent, child,

~~stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.~~

426.16.CB. Disclosure of Relationship

1. Prior to the consideration of any matter involving a ~~subject~~Named Party in Interest, each member of a ~~charging, adjudicating, or appeal~~ Committee must disclose to the appropriate Exchange staff whether he or she has one of the relationships listed in ~~Section B~~Rule 416.A. above with ~~thea~~ subjectNamed Party in Interest. Failure to make such disclosure may be a major offense.
2. In its sole discretion, Exchange staff shall will independently determine whether any member of the Committee is required to abstain in any matter involving a Named Party in Interest. Taking into consideration the exigency of the Committee action, such determinations will be based upon information provided by the member pursuant to Section C.1 above and any other source of information that is held by and reasonably available to the Exchange.
3. ~~The Exchange will prepare written records to document that the conflicts determination procedures required by this rule have been followed. Such records will include (a) the names of all members who attended the meeting in person or who were otherwise present by electronic means; and (b) the name of any member who voluntarily recused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the recusal or abstention, if stated.~~

426.D. Not Applicable to Summary Actions

~~This rule shall not apply to those matters where the Committee is authorized summarily to impose minor penalties for violating rules regarding decorum, attire, the timely submission of accurate records for clearing or verifying each day's transactions, or other similar activities.~~

417. PROHIBITED COMMUNICATIONS

417.A. *Ex Parte* Communications

Unless on notice and opportunity for all parties to participate:

1. No subject or respondent (or any counsel to or representative of a subject or respondent) or the Market Regulation Department (or any counsel to or representative of the Market Regulation Department) shall knowingly make or cause to be made an *ex parte* communication relevant to the merits (which shall not include scheduling and procedural matters) of an investigation or a proceeding to a panelist of a charging, adjudicatory, or appeal committee with respect to that matter or proceeding.

2. No panelist of a charging, adjudicating, or appeal committee that is participating in a decision with respect to an investigation or a proceeding shall knowingly make or cause to be made to a subject or respondent (or any counsel to or representative of a subject or respondent) or the Market Regulation Department (or any counsel to or representative of the Market Regulation Department) an *ex parte* communication relevant to the merits (which shall not include scheduling and procedural matters) of that matter or proceeding.

417.B. Communications with Panelists

No member shall attempt to influence disciplinary matters pending before a charging, adjudicatory, or appeal committee by discussing, or attempting to discuss, such pending matters with a member of such committee or any member of the Board.

417.C. Disclosure

Any person who receives, makes or learns of any communication which is prohibited by this rule shall promptly give notice of such communication and any response thereto to the Market Regulation Department and all parties to the proceeding to which the communication relates.

417.D. Violation

A violation of this rule may constitute a major offense. A person shall be deemed not to violate this rule if the person refuses an attempted communication concerning the merits of an investigation or proceeding as soon as it becomes apparent that the communication concerns the merits.

(Next Rule 430)

[Rules 418-430 Reserved]

~~427.~~ ~~429.~~ **[RESERVED]**

~~OFFENSES AND PENALTIES~~

~~430~~1. MAJOR AND MINOR OFFENSES AND PENALTIES

Offenses against the Exchange shall be classified as major offenses and minor offenses.

Major offenses shall be punishable by expulsion, suspension, denial of access to Exchange products or facilities, and/or a fine of not more than \$1,000,000 plus the monetary value of any benefit received as a result of the violation ~~or action, or by~~ expulsion or suspension and a fine.

Minor offenses shall be punishable by suspension, denial of access to Exchange products or facilities, and/or a fine of not more than \$5100,000 plus the monetary value of any benefit received as a result of the violation~~ve action, or suspension for not more than one year, or both. In addition, a fourth minor offense, excluding violations of Rule 513 (CONDUCT, APPAREL AND BADGES) and Rule 514 (TRADING INFRACTIONS), where a public customer or member has been directly made to suffer a financial injury or disadvantage, may be punishable by expulsion.~~

~~A second violation of the same rule or the same minor offense within a period of twenty-four months shall carry penalty provisions equivalent to a major offense.~~

431. — [RESERVED]

432. MAJOR OFFENSES

It shall be a major offense:

- Aa. to ~~be~~have an interested in, operate or knowingly act on behalf of a bucket-shop,~~represent or knowingly~~ make any transaction with a bucket-shop;
- Bb. to ~~be guilty of~~engage in fraud or ~~any act of~~ bad faith;
- Ce. to ~~be guilty of any~~engage in dishonest conduct;
- Dd. to ~~make~~create or report a false or fictitious trade;
- Ee. to extort or attempt extortion;
- Ff. to buy or sell any ~~commodity intending to make~~Exchange futures or options contract with the intent to default on such purchase or sale;
- Gg. to act as both buyer and seller in the same transaction;
- Hh. to ~~manipulate prices or attempt to manipulate prices or to corner or attempt to corner the market~~engage in, or attempt to engage in, the manipulation of prices on Exchange futures or options contracts or cornering or squeezing the underlying cash market;
- Ii. to make a verbal or written material misstatement to the Board, ~~or to a committee, or Exchange employees on any information supplied to the Exchange or its officials;~~
- Jj. to knowingly disseminate false, misleading or inaccurate ~~records~~information concerning crop or market information or conditions that affect or ~~tend to may~~ affect the price of any Exchange futures or options contract or spot transaction in the underlying commodity upon the Exchange;

Kk. to trade or accept performance bonds after insolvency;

Ll. 1. ~~_____~~to fail to appear before the Board, Exchange staff or any investigative and hearing committee at a duly convened investigative hearing or in connection with any investigation;

2. ~~_____~~-to fail to fully answer all questions and produce all books and records at such hearing or investigation, or to testify falsely;

3. ~~_____~~-to fail to produce any books or records requested by Exchange staff in connection with an investigation within 30 days after such request is made or to fail to appear at a scheduled staff interview, ~~which shall be tape recorded at the request of either the person being interviewed or Exchange staff, unless good cause is shown for such failure;~~

Mm. to use or disclose, for any purpose other than the performance of an individual's official duties as a member of any committee or the Board of Directors, ~~material,~~any non-public information obtained by reason of participating in any Board of Directors or committee meeting or -hearing;

Nn. to knowingly accept, directly or indirectly, a trade on the Exchange for the account of a non-member employed on the floor of the Exchange;

Oo. for a ~~mMember or clearing member~~ to permit the use of its facilities or membership privileges ~~by a member or nonmember~~ in a manner that is substantially detrimental to the interest or welfare of the Exchange~~impairs the dignity or degrades the good name of the Exchange or creates a market or other situation detrimental to the Exchange or results in a violation of Exchange Rules, or the Commodity Exchange Act or effectuates manipulations or corners or attempts at either; or to itself do any of the foregoing;~~

Pp. for a Ceclearing Mmember to fail to maintain minimum financial requirements;

Qq. to commit an act which is substantially detrimental to the interest or welfare of the Exchange;

Rr. ~~to resolve a dispute with a member in a manner which is deemed to be substantially detrimental to the interest or welfare of the Exchange by Rule 441;~~ to refuse to submit to the arbitration of any dispute which Exchange staff, an arbitration panel or the Board decides should be arbitrated pursuant to Rules 600 or 601; or to refuse to comply with a final arbitration award;

Ss. to refuse, after hearing, to comply with an order of the Board, Exchange staff or any hearing committee;

Tt. to violate a rule which ~~cites~~states that such violation ~~as~~may be a major offense;

- Uu. except where a power of attorney or similar document has been executed pursuant to Rule 956, for a member or commodity representative to accept or transmit a customer order which has not been specifically authorized, i.e., the customer has not specified commodity, contract month, quantity, time and price;
- Vv. to be expelled from a U.S. or foreign designated commodities or securities exchange;
- Ww. ~~[Reserved]~~ for a Member to fail to diligently supervise its employees and agents in the conduct of their business relating to the Exchange;
- Xx. for a Member to aid or abet the commission of any major offense;
- Y. to improperly utilizeuse the GLOBEX platform or permit the unauthorized use of the GLOBEX platform; and/or
- Zy. for a mMember to fail to disclose to his qualifying Cclearing Mmember that an involuntary bankruptcy petition has been filed against him or, in the case of a voluntary bankruptcy proceeding, that he has filed or has formed a definite intention to file for bankruptcy.

433. MINOR OFFENSES

It shall be a minor offense:

- Aa. to be guilty ofengage in dishonorable conduct;
- Bb. to be guilty ofengage in uncommercial conduct;
- Ce. to be guilty ofengage in any conduct which ~~has a manifest tendency~~ to impair the dignity or ~~the~~ good name of the Exchange;
- Dd. to interposeassert a Statute of Frauds defense to any claim for breach of an Eexchange contract;
- Ee. to make a false entry upon a clearing sheet;
- f. to violate any rule, the violation of which is not a major offense; and
- Fg. to circulate or aidassist in the circulation in any manner of rumors which tend to adversely reflect on the integrity of any contract; and/or
- Gh. for a mMember to utilizeuse any device (whether fixed or moveable) or make any physical alterations on the trading floor that would changealter the existing trading floor elevations, without prior approval from the Exchange.

434. EFFECT OF MAJOR OR MINOR RULE VIOLATION

A ~~m~~Member found guilty of a major or minor rule violation shall be subject to the prohibitions on committee service set forth in Rule 300.

435. EFFECT OF SUSPENSION OR EXPULSION

The effects of a suspension or expulsion from membership shall apply to all divisions in which the suspended or expelled person is a member.

~~435.A. Suspension~~

~~Unless otherwise determined by the committee with jurisdiction over such matters, A~~ Unless otherwise determined by the committee with jurisdiction over such matters, A ~~suspended or expelled m~~Member shall ~~may not be entitled to have~~ any of the privileges of ~~a membership during the time period of such~~ a membership during the time period of such ~~his suspension or expulsion, including, but not limited to, the right to:~~

~~A. _____ A suspended member may be reinstated upon such conditions as the Board may impose. A suspended member shall not be allowed to visit~~ access ~~the Exchange floor or the GLOBEX platform;~~

~~B. _____ during trading hours, obtain member rates; be eligible for a GLOBEX terminal, be eligible for~~

~~C. _____ cross-exchange trading privileges; and~~

~~D. _____ lease out an owned membership or to act in the capacity of a GLOBEX terminal operator except in the instance where special permission is granted by the Board and such permission does not conflict with a CFTC order.~~

~~435.B. Expulsion~~

~~An expelled member shall forfeit all privileges of membership, and shall not be allowed to visit the Exchange floor during trading hours, be eligible for cross-exchange trading privileges or to act in the capacity of a GLOBEX terminal operator.~~

436. OPEN TRADES OF SUSPENDED OR EXPELLED CLEARING MEMBERS

When a Cclearing Mmember is suspended or expelled ~~for a violation of these rules,~~ other than for insolvency or default on his obligation to the Clearing House, it may designate a ~~m~~Member to close out ~~his~~ its open trades in accordance with the Board's direction.

437. NOTICE OF DISCIPLINE

Written notice, in accordance with Section 8c.(4a)(B2) of the Commodity Exchange Act, shall be provided to the CFTC and to any ~~m~~Member who is suspended, expelled,

disciplined or denied access to the Exchange within 30 days after the decision becomes final. Additionally, a written notice shall be posted on the floor of the Exchange for five business days ~~as soon as promptly after~~ the disciplinary action becomes effective ~~or within five days after written notice is provided to the member, whichever occurs first, and.~~ The notice shall include the ~~m~~Member's name, ~~together with the rule(s) violated,~~ the reason for the Exchange's action, and the action taken or penalty imposed.

438. SUSPENSION OR EXPULSION VACATES OFFICE POSITION

Any ~~officer,~~ director or member of any committee of the Exchange, when suspended or expelled from membership, shall be disqualified from further service as a director or committee member ~~considered automatically removed from office or position.~~

439. REINSTATEMENT BAR TO FURTHER DISCIPLINE

~~If a member is reinstated after suspension, or re-elected after expulsion, he shall not again be disciplined for the original offense.~~

44039. MEMBER'S INDEMNIFICATION LIABILITY TO THE EXCHANGE

A Member or former Member shall indemnify and hold harmless the Exchange and its officers, directors, employees, and agents, for any and all losses, damages, costs and expenses (including attorneys' fees) incurred by the Exchange as a result (directly or indirectly) of such Member's violation or alleged violation of Exchange rules or state or federal law.

~~Each member or clearing member shall indemnify and hold the Exchange harmless for the full amount of any judgments or settlements, paid by the Exchange in respect to any legal proceeding brought against the Exchange as a result of an alleged violation of any laws or rules of the Exchange by said member or clearing member or as a result of an alleged failure of the Exchange to detect, prevent or otherwise act against said alleged violation.~~

Any charges arising out of this rule shall be subject to liens as provided in Rule 110(a).

4410. COMPLAINT CLAIMS BY MEMBERS

~~Any member who has a complaint against any other member, the Exchange or its officials, shall file a written complaint before the Business Conduct Committee, or such other committee as may be appropriate, and thereafter appear for a hearing before said committee. Any decision or action by the committee may be appealed to the Board. Complaints against any other member, the Exchange, or its officials as stated in this rule refer to complaints arising out of Exchange transactions or any other matters pertaining to the Exchange.~~

A ~~m~~Member who commences a legal action ~~resorts to the courts or any other department or agency of government~~ for the purposes of resolving or airing a grievance, complaint or dispute against or with the Exchange, its directors, officers, employees, or agents, ~~its officials or another mMember of the Exchange~~ without first resorting to and exhausting the procedures established by Rules 110 and 600 (including appeals to the Board), or any other rules relating to settlement of disputes arising out of transactions or matters pertaining to ~~the Chicago Mercantile Exchange Inc.,~~ shall be deemed to have engaged in conduct which "is substantially detrimental to the interest or welfare of the Exchange" and in direct violation of this rule violated Exchange Rule 432.Q., a major offense. Arbitration pursuant to Chapter 6 is mandatory. This rule shall not abrogate an individual's right to reparations pursuant to Section 14 of the Commodity Exchange Act.

A ~~m~~Member who commences a legal action ~~resorts to the courts for satisfaction~~ against the Exchange, its directors, officers, employees, or agents ~~or its officials,~~ after he has exhausted all of the procedures established by the Exchange, may be found in violation of Rule 432.Q. ~~this rule~~ in the event the Board or BCC unanimously ~~determines~~ that the ~~m~~Member's public action was not ~~un~~meritorious or ~~un~~warranted.

A member found guilty of violation of this rule may, in addition to the prescribed penalties, ~~also be fined an amount computed to include the costs and expenses, including attorney's fees, incurred by the Exchange in defending or responding to such proceeding.~~

Notwithstanding the foregoing, a member may complain to the CFTC of a failure on the part of the Exchange to enforce its rules if that member has first informed the Exchange of the rule enforcement action sought and has given the Exchange adequate opportunity to act.

A member who believes another member has violated the Commodity Exchange Act, as amended, may without violating this rule, lodge a complaint directly with the CFTC.

4421. ADVERTISING GUIDELINES AND PROCEDURES COMMUNICATIONS WITH THE PUBLIC AND PROMOTIONAL MATERIAL

Promotional material and Advertising, ~~market letters and similar information issued by Exchange mMembers and clearing members~~ shall comply with the requirements of National Futures Association Rule 2-29, ~~as amended observe truth and good taste in order to promote the good name of the Exchange; use representative statistics to avoid unwarranted conclusions; and make no promise as to profits, always indicating the possibility of loss if profit is mentioned.~~

If the Business Conduct Committee finds any advertising, market letters or similar information unacceptable, it may take such action as it deems necessary, including requiring that all such future material issued by the member or clearing member be submitted for approval prior to release. Failure to abide by any directive of the Business Conduct Committee in accordance with this rule shall constitute a major offense.

442. NOTIFICATION OF SIGNIFICANT EVENTS

Each Member shall immediately notify the Managing Director of Regulatory Affairs in writing upon becoming aware of any of the following events relating to such Member:

1. any suspension, expulsion, revocation or restriction of such Member's trading privileges or any fine in excess of \$25,000, through an adverse determination, voluntary settlement or otherwise, by any court, commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association, the National Association of Securities Dealers, Inc., or any self-regulatory or regulatory organization; and/or
2. any indictment of the Member or any of its officers for, any conviction of the Member or any of its officers of, any confession of guilt or plea of guilty or *nolo contendere* by the Member or any of its officers to 1) any felony or 2) any misdemeanor involving, arising from, or related to the purchase or sale of any commodity, security, futures contract, option or other financial instrument or involving or arising from fraud or moral turpitude.

Nothing in this rule shall limit or negate any other reporting obligations that any member may have to the Exchange or any other regulator or person. Violation of this rule may be a major offense.

443. SPECULATIVE AND HEDGE POSITION LIMIT VIOLATIONS

It is the duty of the BCC Business Conduct Committee shall have the authority to enforce the speculative position limit rules of the Exchange. For purposes of this rule, positions in excess of any allowed by a valid hedge approval shall be deemed speculative position limit violations. Additionally, any person making a bid or offer that would, if accepted, cause such person to exceed the applicable position limits shall be in violation of this rule.

All speculative position limit violations shall be handled pursuant to Paragraphs A., B. and C. Failure to reduce any positions, including positions described in Rule 443. Paragraph C., as instructed by the Division of Market Regulation Department, shall result in the imposition of fines in accordance with the automatic fine schedule in Paragraph Rule 443.-E. A customer who exceeds the speculative position limits as a result of maintaining a positions at more than one clearing member and exceeds the speculative position limit shall will be deemed to have waived confidentiality regarding his position; and the identity of the clearing members at which they are maintained carrying his positions will be informed of the required pro-rata reduction.

~~Sanctions issued pursuant to this rule. Any order or fine may be appealed by the clearing member, member or AP to the BCC Business Conduct Committee which may modify or overturn the order or fine.~~ sanction for good cause shown.

443.A. First Occurrence Violation

~~The first occurrence violation of a speculative position limit violation will result in a warning letter to be issued by the Division of Market Regulation Department to each of the customers, associated persons, the commodity representative and the clearing firms involved. In the case of a customer trading at more than one clearing member, the customer, in addition to the commodity representatives and clearing members, will be issued a warning letter. Although such activity shall be considered a rule violation, notice of such a rule violation will not be recorded posted for the first occurrence of a speculative position limit violation; however, a record of the incident will be maintained.~~

443.B. First Subsequent Violations Following a Warning Letter

~~The first A subsequent speculative position limit violation within 12 months of the receipt issuance of a warning letter shall constitute a rule violation which may result in the issuance of which shall subject the violator to a cease and desist order by the Market Regulation Department to the associated persons and clearing members involved, be issued by the Division of Market Regulation which shall be posted. The record of any orders issued and fines imposed hereunder shall become a part of the permanent file of the Exchange.~~

~~A clearing member and an associated person who are in violation for the same customer following receipt of a warning letter shall receive an order to cease and desist from further speculative position limit violations. However, if on the books of a single clearing member, different customers or different associated persons are involved, the incident will constitute a first occurrence.~~

~~If a customer, trading at more than one clearing member, exceeds the speculative position limits after having received a warning letter for a previous violation of this rule, the customer will be issued a second warning letter, with copies sent to the appropriate clearing members parties, stating that a third violation will result in a hearing to consider denial of access to the market. In addition, the clearing members and associated persons involved may be found to have violated the speculative limit rules and be ordered to cease and desist, unless they can demonstrate that they exercised due diligence, including proper communications to the customer and regular monitoring of the customer and the associated person, to prevent the violation of speculative position limits.~~

443.C. Referral to the Business Conduct Committee

~~Notwithstanding anything to the contrary, The BCC Business Conduct Committee may take other actions or impose additional penalties in the following cases:~~

1. Where the violation occurs in the spot month;
2. Where the violation involves a position which is more than 150 percent of the speculative or approved hedge position limit;
3. Where the violation is the third offense within any 12-month period; or
4. Where the ~~Division of Market Regulation~~ Department deems the violation to ~~constitute a severe abuse of Exchange rules~~ be of an egregious nature.

443.D. Alternate Risk Factor Evaluation

If, at the ~~close of pit trading~~ end of the business day, a position exceeds speculative limits when evaluated using the previous day's IOM risk factors, but does not exceed speculative limits when evaluated using the IOM risk factors as of that day's close of trading, then the position shall not be deemed to violate speculative limits.

443.E. Automatic Fine Schedule for Failure to Reduce Positions

	SITUATION	FINE	ASSESSED AGAINST
1.	Member account _____ over speculative _____ position limits at _____ one clearing _____ member. _____	\$100/contract/day until position is reduced. \$500/day until position is reduced.	Member Clearing member
2.	Associated _____ person _____ account over _____ speculative _____ position limits _____ at one clearing _____ member.	\$100/contract/day until position is reduced. \$500/day until position is reduced.	Associated person Clearing member
3.	Customer _____ account over _____ speculative _____ position limits _____ at one clearing _____ member. _____	\$250/day until position is reduced. \$100/contract/day until position is reduced or \$500/day until	Associated person Clearing member

_____ position is reduced,
_____ whichever is greater.

- | | | | |
|----|---|--|---|
| 4. | House account
_____ over speculative
_____ position limits at
_____ one clearing
_____ member. | \$100/contract/day
until position
is reduced. | Clearing
member |
| 5. | Customer
_____ account over
_____ speculative
_____ limits and
_____ positions at more
_____ more than one
_____ clearing member. | \$100/contract/day
until position is
reduced or
\$500/day until
position is
reduced, whichever
is greater. | Clearing
member(s)
(pro-rata
among clearing
members). |

444. — 446 [RESERVED]

(End Chapter 4)

INTERPRETATIONS & SPECIAL NOTICES RELATING TO CHAPTER 4

CLEARING MEMBERS

(Monthly Executive Report, July 1977)

~~You are advised that failure to answer customer complaints promptly and in full detail may be considered "uncommercial conduct" in violation of Rule 433.~~

INTERPRETATION OF ADVERTISING POLICIES

(Revised March 1979)

~~On October 20, 1969, the Exchange Board of Directors passed an advertising rule, which will be of increasing importance to all members and their associates. To aid all concerned in abiding by these rules, the following guidelines are presented:~~

~~"Advertising," (in the sense of the Exchange rule) refers not only to the usual concept of ads as they appear in newspapers and magazines, but to all predetermined and formal solicitations of business. These include so-called form letters and market letters and other mass-produced mailings; commercials or formal presentations (as opposed to interviews or off-the-cuff remarks) on radio or television; and corresponding lectures or representations at conventions, seminars or other organized programs.~~

The first important implication of the rule is that good taste must always be observed. This does not require stodginess or lack of imagination, for certainly it is to everyone's advantage for CME advertising approaches to be fresh and productive. However, in their public relations it is intended that the Exchange and its members work to develop an ever-improving (and deserved) image of financial integrity; service to the individual and to the national economy; utility as a market involving an expanding variety of commodities; and unequalled vitality and growth as a major economic institution.

A second implication of the advertising rule is that whenever a potential speculator is approached, he be told representative facts without exception. Wording of statements should avoid promises, exaggerations, opinions or emotional terms unsupported by facts. It is the nature of commodity futures speculation and of the rule that whenever there is a chance for profit, there is the equal risk of loss, and this must always be stated. Reports of past successes (in terms of potential profit by an individual following recommendations) are improper if they imply that this success is typical or that it will follow in the future. The use of a headline suggesting prices far above or below the current market is also inappropriate if the body text does not accompany such promises of profit with an equally strong warning of the risk of loss.

This rule, and the Exchange's advertising concepts, include other implications:

Exchange motion pictures, slide films, etc. should NOT be cut, revised or interspersed with advertising or commercials for a specific film.

Exchange ads should not be adapted to the use of individual members or others.

Unauthorized persons should not advertise or imply that they represent the Exchange.

Tie-in ads should not be misused to imply special endorsements by the Exchange.

To support the Exchange's efforts, and when feasible to do so, individual members advertising trade in commodities handled on the CME might mention this fact, to minimize ideas that such trading might be accomplished elsewhere.

It is recommended that broadcasts or reproductions of Exchange activities and quotations sponsored on a regular basis by members have their general approach and typical contents cleared in advance with the Public Affairs Department.

When representing the Exchange and its members at conventions and seminars, speakers should make every effort to be educational and to refrain from making specific trading recommendations which might be inappropriate or confusing to a general or novice audience.

In their own advertising approaches, members and their associates should be supportive of the Exchange and its activities, offering criticisms and suggestions through Exchange channels, rather than initiating them via public media.

To implement supervision of this rule, members and clearing members should retain on file for one year all forms of market letters, advertisements and talks by representatives.

While the rule is directed mainly at the potential speculative trader, whose risks are by definition greater than those of a bona fide hedger, approaches to both hedger and speculator should be separate and clear-cut, both in terms of wording and medium used. The "good taste" provision applies to both, however.

This advertising rule is designed to protect everyone—the public, members, clearing members and the Exchange. When in doubt, check in advance with the CME Public Affairs Department. Note that the principals of a Clearing House member firm bear ultimate responsibility for advertising placed by all associates—whether members, branch office employees or commodity representatives. It is the responsibility of such principals to insure knowledge of rules and these guidelines by all individuals concerned.

CONVENTION GUIDELINES

(Special Executive Report March 9, 1978. Revised November 2000.)

To maintain control over the representation of Chicago Mercantile Exchange Inc. at conventions, it is necessary that rules be enacted and enforced regarding CME convention booths and badges; and to maintain the image of Chicago Mercantile Exchange Inc. at conventions, it is necessary that guidelines be established regarding the appearance, attire and conduct of Exchange staff, members and registered representatives at conventions, hereinafter collectively referred to as "CME representatives." To accomplish these purposes, the Public Affairs Committee and the Board of Directors have adopted the following rules and guidelines:

—1.— Convention Booths and Badges

- A.— CME staff only shall be permitted to be in or to use a CME convention booth.
- B.— CME staff only shall be permitted use of CME convention badges.

—2.— Appearance and Attire

- A.— CME representatives shall be neatly groomed and, if male, clean shaven, or with mustache or beard neatly trimmed.
- B.— All males shall wear dress shirts with neck or bow ties properly tied in an acceptable manner.
- C.— Conventional business footwear shall be worn by all CME representatives.
- D.— CME representatives shall wear sport or suit jackets which conform with CME standards. (Jackets may be provided for Exchange employees.)

E. — Personal attire shall be clean, neat and presentable.

— 3. — Conduct

A. — A CME representative must always maintain a professional appearance, realizing that his behavior reflects on the Exchange.

B. — A CME representative must maintain a dignified body posture (not sitting on tables, laying across chairs, etc.)

C. — A CME representative must abstain from loud or boisterous behavior including profanity, vulgarity or any speech or conduct which tends to intimidate anybody.

D. — No hard sell tactics shall be used such as stopping or grabbing conventioners in the aisles.

E. — No CME representative shall push into a conversation between another representative and a conventioner.

F. — No staff member shall drink alcoholic beverages while in the booth nor shall he remain in the booth if intoxicated.

G. — No person shall remove ticker tapes from the booth.

H. — The staff member shall be responsible for maintaining a clean, neat, orderly booth.

— 4. — Disciplinary Actions

A. — Exchange members and registered representatives in violation of Rule 1 A. above may be expelled from the booth by the CME staff person manning the booth, provided that the member or registered representative has been given one warning of the violation.

B. — Failure of Exchange members or registered representatives to comply with the above rules and guidelines may constitute a violation of Rule 433.c., a minor offense.

C. — The Business Conduct Committee retains jurisdiction to hear disputes involving the above rules and guidelines.

POSITION LIMITS

(Special Executive Report October 1, 1970)

Any person making a bid or offer which would, if accepted, put such person over the position limits shall be deemed in violation of such position limits.

PENALTY GUIDELINES

~~(Special Executive Report S-2241 April 30, 1990. Revised November 2000.)~~

~~The following penalty guidelines shall be used for guidance by Exchange disciplinary Committee panels and the Board of Directors Special Board panels to members in each case where a public customer has been directly made to suffer a financial injury or disadvantage by reason of a violation of any of the following trading rules for offenses which occurred after adoption of the policy on August 3, 1989.~~

- ~~1. Major rule violations:
 - ~~A. First offense Six months suspension of all membership privileges; and~~
 - ~~B. Second offense Expulsion.~~~~
- ~~2. Minor rule violations (including all non-major trading rule violations):
 - ~~A. First offense Thirty days suspension of all memberships privileges;~~
 - ~~B. Second offense Six months suspension of all membership privileges;~~
 - ~~C. Third offense One year suspension of all membership privileges; and~~
 - ~~D. Fourth offense Expulsion.~~~~
- ~~3. A committee, panel or hearing committee deciding not to follow the guidelines shall explain its rationale in the minutes of the hearing.~~

GEM MEMBER REQUIREMENTS

A GEM member, while on the trading floor as a GEM member, must be primarily engaged in the business of trading or soliciting orders for GEM Division products. Shortly after the GEM Division was created, the GEM Access Committee adopted an interpretation allowing a GEM member to act as a non-member clerk in non-GEM products on the trading floor, while also acting as a GEM member with respect to GEM products, provided that the following restrictions are met:

- The GEM member must be registered with the Exchange as a floor clerk in order to act in that capacity.
- Such member cannot exceed the functions permitted to a non-member floor clerk with respect to non-GEM products—i.e., he or she cannot solicit customers in such products and cannot share in any revenues generated as a result of trades in such products.
- A GEM member who also acts as a clerk will not satisfy the one-year holding period to become an order filler as a lessee in another Division pursuant to Rule 106.D.10. unless

he or she can demonstrate that he or she was primarily engaged in active trading or order filling in GEM Division products during that time.

Starting from September 11, 1998 [the effective date of the Interpretation], an individual may have floor access as both a GEM member and as a non-member clerk in non-GEM products for no longer than one year. After one year, the individual must relinquish either his or her floor access as a GEM member or his or her ability to act as a clerk on the trading floor. Exchange staff may grant waivers of that requirement to individuals upon a showing of financial hardship or upon a showing that the individual has made a good faith effort to increase his or her trading or solicitation of GEM products while on the trading floor.

DEFINITIONS

[Definitions of ACT through CORPORATION unchanged.]

DISCIPLINARY OFFENSE

Any offense as set forth in Rule 300.C.

[Definitions of ELECTRONIC DEVICE through NON-FCM unchanged.]

NOTICE

Except as otherwise specifically provided, a notice in writing personally served upon the person to be notified, or left at his usual place of business during business hours, or mailed by certified or registered mail or by overnight delivery to his place of business or residence.

[Definitions of NOTICE TO MEMBERS through ORDERS unchanged.]

PANEL

A subcommittee selected in accordance with committee procedure to adjudicate or make a particular determination. A decision of a panel shall be deemed a decision of the committee.

PANELIST

An individual appointed to an Exchange committee who is entitled to participate in a decision on any matter under consideration by the committee or panel thereof.

[Definitions of PARTNER OF CLEARINGHOUSE through End of Definitions unchanged.]

RELATED RULES

106. TRANSFERS, SECURITY TRANSACTIONS, AND AUTHORIZATIONS TO TRANSFER OR SELL

[No change until Rule 106.K.]

106.K. Transfer to a Trust

[The first two paragraphs are unchanged.]

The grantor's liability to the Exchange under Rule 44039 shall continue with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership and associated Class B Share will continue to be treated as the asset of the grantor for the purposes of Rule 44039 and for otherwise meeting any obligations to the Exchange arising out of the grantor's use of the membership prior to the transfer to the trust, including fines imposed with respect to conduct occurring prior to the transfer.

[The remainder of Rule 106.K. and Rule 106.L. are unchanged.]

106.M. Transfer to Joint Tenants With Right of Survivorship

[The first two paragraphs are unchanged.]

Whether or not the transferor is the designee, the transferor's liability to the Exchange under Rule 44039 shall continue with respect to any claim arising out of an act or omission occurring prior to a transfer under this rule, and the membership and associated Class B Share will continue to be treated as an asset of the transferor for the purposes of Rule 44039 and for otherwise meeting any obligations to the Exchange arising out of the transferor's use of the membership prior to such transfer, including fines imposed with respect to conduct occurring prior to the transfer.

[The remainder of Rule 106.M., Rule 106.N., and Rule 106.O. are unchanged.]

106.P. Transfer to a Family Limited Partnership

[The first two paragraphs are unchanged.]

Assignment of a membership and associated Class B Share pursuant to this rule shall not relieve the transferor of any liability to the Exchange under Rule 44039 with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership and associated Class B Share will continue to be treated as the asset of the transferor for the purposes of Rule 44039 and for otherwise meeting any obligations to the Exchange arising out of the transferor's

use of the membership prior to the transfer to the FLP, including fines imposed with respect to conduct occurring prior to the transfer.

[The remainder of the rule is unchanged.]

110. CLAIMS AGAINST MEMBER, APPLICATION OF PROCEEDS

[The first four paragraphs are unchanged.]

Except as provided in Rule 913, the President shall make a distribution of such proceeds within 30 days after receiving notification and confirmation of the sale of the membership, unless claims to the proceeds are not resolved within that period. If, however, at such time an Exchange disciplinary proceeding is pending against the seller or, based upon a pending investigation, is highly probable, or if a legal proceeding, in respect to which the indemnification provisions of Rule 440~~39~~ would operate, is pending, has been announced or is highly probable, then the President shall retain so much of the proceeds as he judges will be required to satisfy such obligations until such time as the pending matter is concluded.

[The remainder of the rule is unchanged.]

513. CONDUCT, APPAREL AND BADGES

[No change until Rule 513.B.]

513.B. Authority to Deny Access

Members and their employees may be denied access to or be immediately removed from the trading floors on Exchange premises by Exchange staff upon a reasonable belief that such immediate action is necessary to protect the best interest of the Exchange, subject to a prompt hearing before the Business Conduct Committee. If, after hearing, the Business Conduct Committee determines that a member or an employee of a member should be denied access to the trading floor, such member or employee may appeal the decision to the Board pursuant to the procedures set forth in Rule 417~~1~~.

[The remainder of the rule is unchanged.]

717. STRIKES, EMERGENCIES, ACTS OF GOVERNMENT AND ACTS OF GOD

[The first paragraph is unchanged.]

The procedural requirements detailed in Rule 411~~.B~~02.C. shall be followed in the implementation of this rule.

736. EMERGENCIES, ACTS OF GOD, ACTS OF GOVERNMENT

[The first paragraph is unchanged.]

The procedural requirements detailed in Rule ~~411.B02.C~~ shall be followed in the implementation of this rule.

923. EMERGENCY FINANCIAL CONDITIONS

In the event, after investigation, the President determines that the financial condition of a clearing member is such that to allow that clearing member to continue its operation would jeopardize the integrity of the Exchange, he may empanel the President, Chairman of the Board, the Chairman of the Clearing House Risk Committee and the Managing Director and President of the Clearing House. Such panel shall be duly authorized and, upon a unanimous vote of the committee, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the clearing member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open position of the clearing member, or (e) additional performance bond to be deposited with the Clearing House. The clearing member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 4171. In the event of suspension, the President shall within five days of suspension, set the matter for hearing before the Board for final determination.

940. SUSPENSION OF CLEARING MEMBERS

[The first two paragraphs are unchanged.]

A clearing member may be suspended by the Board if it fails to meet the capital requirements of the Exchange or the Commodity Futures Trading Commission or if its financial condition is such that its continued operation would jeopardize the integrity of the Exchange. Members and clearing members suspended in accordance with this rule shall be notified and may request a hearing before the Board as provided in Rule 4171.

941. SUSPENSION OF OFFICERS OR PARTNERS

Whenever an officer, owner or partner of a clearing member is suspended or expelled, the respective clearing member, may be suspended or expelled for a like term. Members and clearing members affected by this rule shall be notified and may request a hearing before the Board as provided in Rule 4171.